65

# SUPREME COURT OF THE UNITED STATES.

## No. 79.

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WILLIAM THOMAS, SOUTHWORTH BARNES, NATHANIEL RUSSELL, ET AL., OWNERS OF THE BARQUE LAURA, APPELLANTS,

vs.

JAMES W. OSBORN.

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APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF MARYLAND.

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INDEX.


| | Original. | Print. |
|---|---|---|
| Record of the district court | 1 | 1 |
| Libel | 2 | 1 |
| Exhibit No. 1 | 4 | 2 |
| Exhibit No. 2 | 5 | 3 |
| Claim | 7 | 5 |
| Stipulation | 8 | 5 |
| Answer | 9 | 6 |
| Exhibit A | 17 | 10 |
| Exhibit B | 18 | 10 |
| Deposition of Francis H. Weston | 19 | 11 |
| Cross-examination | 30 | 15 |
| Exhibit A | 36 | 17 |
| Exhibit B | 38 | 18 |
| Exhibit C | 40 | 19 |
| Exhibit D | 43 | 21 |
| Exhibit E | 44 | 22 |
| Deposition of Captain Phineas Leach | 45 | 22 |
| Cross-examination | 72 | 31 |
| Additional interrogatories in chief | 95 | 39 |
| Additional cross-interrogatories | 103 | 41 |
| Exhibit A, (C. W. L.) | 110 | 43 |
| Exhibit B, (C. W. L.) | 111 | 44 |
| Exhibit C, (C. W. L.) | 112 | 46 |
| Exhibit D, (C. W. L.) | 116 | 48 |


GIDEON, print.

| | Original. | Print. |
|---|---|---|
| Exhibit G, (C. W. L.) | 118 | 50 |
| Exhibit H, (C. W. L.) | 120 | 51 |
| Exhibit I, (C. W. L.) | 122 | 52 |
| Exhibit K, (C. W. L.) | 124 | 54 |
| Copy—Barque Laura and owners to A. Ruden & Co | 125 | 54 |
| Invoice—Barque Laura for Panama | 125 | 55 |
| Letter from A. Ruden & Co. to E. T. Loring | 126 | 56 |
| Deposition of Wm. H. Vincent | 127 | 56 |
| Exhibit B, (E. G. L.) | 138 | 60 |
| Exhibit G, (E. G. L.) | 140 | 61 |
| Translation of circular | 141 | 62 |
| Decree of district court | 142 | 63 |
| Appeal bond | 144 | 64 |
| Decree of the circuit court | 147 | 65 |
| Appeal bond | 149 | 66 |
| Clerk's certificate | 151 | 67 |

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and fifty-four:

Present, the honorable R. B. Taney, chief justice of the Supreme Court of the United States;
William F. Giles, judge of Maryland district;
William Meade Addison, esquire, attorney;
John W. Watkins, esquire, marshal;
Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

BARQUE LAURA AND OWNERS, appellants,
vs.
JAMES W. OSBORN, appellee.

Be it remembered, that heretofore, to wit, on the eighteenth day of September, in the year of our Lord one thousand eight hundred and fifty-four, George Wm. Brown and Frederick W. Brune, proctors for the Barque Laura and Owners, filed in the circuit court here a record from the district court of the United States in and for the Maryland district, in the words and figures following, to wit:

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

At a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Tuesday in June, in the year of our Lord one thousand eight hundred and fifty-four:

Present, the honorable William F. Giles, judge of Maryland district;
William Meade Addison, esquire, attorney;
John W. Watkins, esquire, marshal;
Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

JAMES W. OSBORN
vs.
THE BARQUE LAURA. } *Libel.*—Filed 13th June, 1853.

To the honorable John Glenn, judge of the district court of the United States for the district of Maryland.

The libel of James W. Osborn, of the city of Baltimore, against the Barque Laura, whereof Phineas Leach now is, or late was her master,

her tackle, apparel, and furniture, and against all persons lawfully intervening for their interest therein, the said Barque Laura now being at the port of Baltimore, at the district aforesaid, and within the admiralty and maritime jurisdiction of this honorable court. And the said libellant alleges and articulately propounds, as follows:

First. That the said barque belonging to the port of Plymouth, in the district of Massachusetts, being in the port of Valparaiso, in Chili, in the months of February and March, or thereabouts, in the year eighteen hundred and fifty-two, and being greatly in need of repairs, supplies, materials, and necessaries, a certain mercantile house in said port, doing business under the name of Loring and Company, did, then and there, at the instance and request of Phineas Leach aforesaid, who was master of the said barque, at such time and place, advance and pay for and furnish such repairs, supplies, materials, and necessaries to the said barque and her master aforesaid, to the amount of twenty-seven sixty-five dollars and thirteen cents, besides the sum of five hundred and thirty-six dollars and sixty-two cents for expenses for supplies and necessaries of the said barque at the port of Payta, in Peru, for which the said barque was liable; making the sum of three thousand three hundred and one dollars and seventy-five cents, ($3,301 75,) in all, as will more fully and at large appear in the accounts marked No. 1 and No. 2, respectively, which are filed herewith, and upon one of which will be seen the admission of its correctness by the said Phineas Leach.

Second. That the materials, supplies, necessaries, and moneys were furnished to the said barque upon the credit of the said barque, as well as of the owners and master thereof, by the said firm of Loring and Company, and were suitable, proper, and necessary, for the purpose of enabling the said barque to proceed to sea with safety.

Third. That the aforesaid three thousand three hundred and one dollars seventy-five cents ($3,301 75) is still due and wholly unpaid, and that the claim therefor and right thereto has been assigned to this libellant, as agent of the said Loring and Company, to collect and have the same for them in their absence from the United States and from this district.

Fourth. That all and singular the premises are true.

Wherefore the libellant prays that process in due form of law may issue against the said Barque, her tackle, apparel, and furniture and boats, and that this honorable court will pronounce for his aforesaid demand, and decree the same to be paid, with interest and costs; and for such further relief in the premises as may be meet, and the court is competent to give.

WALLIS & THOMAS, *Proctors for libellant.*

*Exhibit No.* 1, *referred to in the libel.*

E.—(C. W. L., March, 1854.)

Paper referred to by Phineas Leach in his deposition in the case of the Laura.

C. W. LORING, *U. S. commissioner.*

76

Barque Laura and Owners, to Loring & Co., Dr.

| | |
|---|---|
| To cash paid R. Grover's bill, sundries, blacksmith's work | $4 00 |
| Cooney & Simpson's do. cooperage - - - | 14 25 |
| Leper & Lacton's do. water - - - - | 18 75 |
| John Mason's do. carpenter's work - - | 763 87 |
| William Jones's do. sail-making - - - | 148 46 |
| Apothecary's bill - - - - - - - - | 4 18 |
| Cash paid captain of the port, $2; anchorage, $2 - - | 4 00 |
| Cash, light dues - - - - - - - - | 7 18 |
| Thomas Luker's bill, tin work - - - - - | 7 12 |
| Boat transhipping, fire-wood - - - - - | 3 50 |
| Ostazon & McFaddon's bill of beef - - - - | 56 12 |
| Salamanca & Co., 100 tablas claurel - - - - | 35 00 |
| Our bill sundries - - - - - - - - | 1,459 69 |
| Cash paid for scraping ship - - - - - - | 22 87 |
| Do. for mooring, &c. - - - - - - | 17 25 |
| Sundry expenses and labor on board, &c. - - - | 145 44 |
| | $2,707 69 |

Valparaiso, *March* 20, 1852. $2,707 69

Correct. PHINEAS LEACH.

| | | |
|---|---|---|
| William Pritchard's bill of bread - - - | $57 44 | |
| Ruden & Co.'s draft for expenses of Bark Laura at Payta - - - - - - - - - | 536 62 | $594 06 |
| | | $3,301 75 |

*Exhibit No. 2, referred to in the libel.*

Bark Laura and Owners, Capt. Phineas Leach, to Loring & Co., Dr.

| | | | |
|---|---|---|---|
| Feb. 12 | ½ | an'a coffee, $2 4; ¼ an's rice, 6½; tea, $1 2 | $4 04 |
| | 1 | sugar, $2 6; 6 lbs. butter, $3; bread, $1 | 6 06 |
| | 1 | cheese, $3 6; 1 basket fruit, $1 - - | 4 06 |
| 18 | 48 | lbs. composition nails, 20 c. - - - | 12 04 |
| 23 | 40 | Do. do. " - - - | 10 03 |
| 24 | 4 | corn brooms - - - - - | 1 04 |
| | 1 | case yellow sheath'g metal, 358 lbs. *a* 26 c. | 93 00½ |
| | 20 | lbs. composition nails - - - - | 5 01½ |
| 25 | 18 | Do. do. - - - - | 4 05½ |
| | 6½ | lbs. sheet lead - - - - - | 06½ |
| | 1 | tacks - - - - - - - | 1 00 |
| 26 | 11 | lbs. composition nails - - - - | 2 07 |
| 27 | 2 | barrels charcoal - - - - - | 5 04 |

*Exhibit No.* 2—Continued.

| | | | |
|---|---|---|---|
| March 1 | 2 | cans black paint - - - - - | $3 04 |
| | 5 | gallons linseed oil - - - - | 7 04 |
| | 6 | dozen matches - - - - - | 1 04 |
| | 5 | bolts canvas, *a* $12 - - - - | 60 00 |
| | 2 | Do. do. *a* $11 - - - - | 22 00 |
| 2 | 2 | lbs. butter, $3; 2 gallons vinegar, $1 4 - | 4 04 |
| | ½ | lb. mustard, 4 cts.; ½ dozen mugs, $1 - | 1 04 |
| | 1 | soup tureen, $3 4; 1 barrel beef, $15 - | 18 04 |
| | 1 | can white paint, $3 1; 1 bbl. pork, $15 | 18 01 |
| | 1 | bag beans, 160 lbs., 2½ cts. - - - | 4 00 |
| 3 | 1 | bag fine salt, $1 2; 3 shovels, $2 2 - | 3 04 |
| 5 | 3 | bolts canvas, $36; 6 bolts canvas, $72 - | 108 00 |
| 10 | 1 | box soap, $2; 2 lbs. saleratus, $1 - | 3 00 |
| 15 | 1 | ship's camboose - - - - - | 77 05 |
| | 7 | shovels - - - - - - | 5 02 |
| | 148 | sheets copper, 1129 lbs., *a* 26 - - | 293 04½ |
| 16 | 1 | broad hatchet - - - - - | 2 00 |
| 17 | 10 | barrels beef, *a* $15; 6 barrels pork, $15 | 240 00 |
| | | | $1,027 56 |
| | 1 | barrel molasses, 28 gallons, 62½ cts. - | 17 36 |
| | 1 | barrel brown sugar, 226 lbs., *a* 7 cts. - | 15 82 |
| | 2 | bladders butter, 21 lbs., *a* 50 cts. - - | 10 50 |
| | 2 | cheeses, 25 lbs., *a* 30 cts. - - - | 7 50 |
| | 6 | hams, 83 lbs., *a* 25 cts. - - - | 20 75 |
| | 100 | lbs. rice, $8; 6 bottles pickles, $3 - | 11 00 |
| | 6 | gallons sperm oil, $1 75 - - - | 10 50 |
| | 10 | galls. vinegar, *a* 75 cts., 1 keg for same, $1 | 8 50 |
| | 4 | bags flour, 100 lbs., *a* $4 - - - | 16 00 |
| | 1 | bag beans - - - - - - | 4 50 |
| | 1 | doz. pumpkins, $2 50; 1 doz. cabbages, $1 25 - - - - - - | 3 75 |
| | 1093 | lbs. potatoes, 1¼ c., 7 bags for same, $1 75 | 14 51 |
| | 100 | onions, $1 50; 1 bag coffee, 130 lbs., *a* 12½ | 17 75 |
| | 1 | box black tea, 28 lbs., *a* 60 cts. - - | 17 10 |
| | 1 | lb. mustard, $1; 2 lbs. spices, $1 50 - | 2 50 |
| | 25 | lbs. nails, $2; 2 lbs. ground pepper, 75 c. | 2 75 |
| | 2 | bottles olive oil, $1 25; 1 lb. copp. nails, $1 | 2 25 |
| | 100 | lbs. dried apples - - - - - | 14 00 |
| | 2½ | doz. sail needles, $1 50; 10 lbs. sail twine, $6 - - - - - | 7 50 |
| | 125 | lbs. white paint, $15 62½; 25 lbs. black paint, $3 50 - - - - - | 19 12 |
| | 5 | gallons linseed oil, $1 50 - - - | 7 50 |
| | 2 | steel marlin spikes, *a* $1 - - - | 2 00 |
| | 5 | bolts No. 1 extra canvas, $12 50 - - | 62 50 |
| | 2 | bolts No. 6 do $11 - - | 22 00 |

*Exhibit No.* 2—Continued.

| | | | |
|---|---|---|---|
| | 1 | coil Manilla rope, 98 lbs., *a* 17 cts. - | $16 66 |
| | 1 | coil hemp rope, 460 lbs., *a* 13 cts. - | 59 81 |
| Mar. 18 | 4 | lbs. saleratus, $2; ½ doz. tea spoons, 37½ c. | 2 37 |
| | 1 | lb. brads, 28 cts.; 1 side of leather, $3 - | 3 38 |
| | 1 | doz. brooms, $1; 1 carpenter's hammer, 75 cents - - - - - - - | 1 75 |
| | 1 | meat chopper, 75 cts.; 4 saw files, 75 cts. | 1 50 |
| 19 | 5 | M. sticks firewood, $5 - - - - | 25 00 |
| | | | $1,455 69 |

*Claim.*—Filed 18th June, 1853.

JAMES W. OSBORN
vs.
BARQUE LAURA. } *In Admiralty.*

In the district court of the United States for the district of Maryland.

To the honorable the judge of the district court of the United States for the Maryland district.

And now comes Francis H. Weston, master of the Barque Laura, intervening in behalf of William Thomas, Southworth Barnes, Nathaniel Russell, Andrew L. Russell, Benjamin Hathaway, Ellis Drew, Lemuel Simmons, administrators of Daniel Goddard, deceased, and Charles G. Davis, of the city of Plymouth, in the State of Massachusetts, claimants of the Barque Laura, now in the custody of the marshal of said district, and alleges that said William Thomas, Southworth Barnes, Nathaniel Russell, Andrew Russell, Benjamin Hathaway, Ellis Drew, Lemuel Simmons, administrator as aforesaid, and Charles G. Davis, of the city and State aforesaid, are the true and bona fide owners of the Barque Laura, and that no other person is the owner thereof; and that he, the said Weston, is now the master of said barque, and as such master has the possession of said Barque Laura, and is the lawful bailee thereof for said owners; and intervening in behalf of said owners, he prays that the said barque may be released from the custody of the marshal on stipulation being entered into.

FRANCIS H. WESTON.

Sworn to and subscribed, this 18th day of June, 1853, before me.

JNO. CARRERE,
*Commissioner U. S., Maryland district.*

*Stipulation.*—Filed 18th June, 1853.

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

Be it remembered, that on this 18th day of June, in the year of our Lord one thousand eight hundred and fifty-three, before me, John Car-

rere, a commissioner appointed by the circuit court of the United States for the fourth circuit, in and for the Maryland district, pursuant to the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," appears James Birckhead, junior, of the district aforesaid, in his proper person, and submits himself to the jurisdiction of the district court of the United States for the district of Maryland, and consents to bind himself, and does acknowledge himself, his heirs, executors, and administrators, to be bound in the sum of six thousand dollars, for the claimants of the Barque Laura, unto James W. Osborn, to perform and fulfil the final order and decree of the said district court; and in case of an appeal from such final order and decree of the said district court, then the final order and decree of the circuit court of the United States for the fourth circuit, in and for the Maryland district; and in case of an appeal from such final order and decree of the said circuit court, then the final order and decree of the Supreme Court of the United States, in a certain cause now depending in the said district court, wherein the said James W. Osborn is libellant, and the claimants of the said Barque Laura are respondents; and unless he so does, he consents that execution shall issue against him, his executors and administrators, his goods, chattels, lands, and tenements, wheresoever found or to be found.

Acknowledged before JNO. CARRERE.

*Answer*.—Filed 2d September, 1853.

*In Admiralty.*

The answer of William Thomas, Southworth Barnes, Nathaniel Russell, Andrew L. Russell, Benjamin Hathaway, Ellis Drew, Lemuel Simmons, administrator of Daniel Goddard, deceased, and Charles G. Davis, of the town of Plymouth, in the State of Massachusetts, owners and claimants of the Barque Laura, to the libel of James W. Osborn against the said barque.

And now comes the said William Thomas, Southworth Barnes, Nathaniel Russell, Andrew Russell, Benjamin Hathaway, Ellis Drew, Samuel Simmons, administrator of Daniel Goddard, deceased, and Charles G. Davis, owners of the said barque; and for answer to the libel of James W. Osborn against the said barque, do allege and propound as follows, to wit:

First. That the said William Thomas, Southworth Barnes, Nathaniel Russell, Andrew L. Russell, Benjamin Hathaway, Ellis Drew, Lemuel Simmons, administrator of Daniel Goddard, deceased, and Charles G. Davis, are the true and bona fide owners of said barque, and that no other person is the owner thereof.

Second. That it is true that said barque belongs to the port of Plymouth, in the district of Massachusetts, and that she was at the port of Valparaiso, in Chili, in the months of February and March, in the year eighteen hundred and fifty-two; that as to the allegation in the

said libel contained, that a certain mercantile house in said port, doing business under the name of Loring & Co., did then and there at the request of Phineas Leach, master of said barque, furnish certain money for her repairs, supplies, and materials of said barque, respondents further answering say, that they do not know, and therefore do not admit, what amount of money may have been so furnished; and they do not know, and therefore do not admit, that the same was necessary for said barque; and they deny that said Leach was then, or has ever since been, the master of said barque, and that he had any right to create any lien or claim on said barque or these respondents for any money so furnished; on the contrary they believe, and therefore so allege, that the contract, whatever it was, between said Leach and Loring & Co. was entirely a personal matter between themselves, and that said Leach is alone responsible therefor; and that whatever money may have been furnished by Loring & Co., on the accounts filed with said libel, was furnished on the credit of said Leach only, and not on the credit of said barque or her owners.

And respondents allege that no such money was furnished with their knowledge or consent, or by their authority, and no notice thereof was ever given to them, and no demand for the payment thereof was ever made on them, although a long time, to wit, some fifteen or sixteen months, elapsed between the periods when said money is alleged to have been furnished and the seizure of said vessel under the process issued in this cause; and although during all said time a partner of said firm of Loring & Co., Elisha T. Loring, resided in Boston, in the vicinity of these respondents. And respondents do not admit that the sum of five hundred and thirty-six dollars and sixty-two cents was furnished for expenses for supplies and necessaries of the said barque, at the port of Payta, in Peru, as alleged in said libel, but of which no account is furnished; and on contrary, they believe and so charge, that whatever money was furnished at said port of Payta, by Loring & Co., was entirely for the purchase of cargo for the benefit of said Leach, and that he alone is responsible therefor.

Third. Respondents further allege, that at the time when said money in the libel is alleged to have been furnished at Valparaiso and Payta, said Leach was engaged in business as a merchant at Valparaiso, which he carried on in the counting-room in that city of Loring & Co., and with whom he had various and extensive transactions; that said Leach had originally taken out said barque to the Pacific, as master, and had there illegally detained her for a long time, contrary to the wishes of respondents, and their repeated instructions and request, and thereby occasioning great loss and injury; and that he was so illegally detaining said vessel for his own benefit and advantage at the time when the money is alleged to have been furnished by Loring & Co.; that at the time Captain Reuben S. Easton was, and for more than a year had been, in command of said barque, and so continued until she was taken possession of by Captain Francis H. Weston, whom respondents had sent out from the United States to take possession of her and bring her home.

Fourth. Respondents further say, that said Captain Weston, on being sent out by them as aforesaid, found said barque at Callao, and there took possession of her for them, and assumed command of her as captain; that he proceeded with her to Valparaiso, where said barque was subjected to heavy expenses for supplies, repairs, and other things; that the money therefor was furnished by Loring & Co., amounting to the sum of three thousand one hundred and sixty-eight dollars and nine cents, as appears by their account, a copy of which is herewith filed, marked Exhibit A, to be taken as part of this answer, and the original of which respondents have ready to produce. That in payment of said amount, said Weston, as master of said barque, drew a bill of exchange, dated at Valparaiso, October 16, 1852, for said sum of $\$3,168\frac{9}{100}$, at ten days' sight, on William Thomas, Plymouth, one of your respondents, and who acted as agent of the barque, with the express agreement set out in said bill that it should not invalidate or affect the lien upon or right of process against said vessel and cargo for the amount of the said bill and damages in case of its not being duly accepted and paid; that said bill was passed to said Loring & Co. by said Weston, and by said Loring & Co. endorsed, payable to the order of Bradford & Gardiner; that it was duly accepted by the drawee, said William Thomas, on the 14th of December, A. D. 1852, and paid by him at maturity; all of which will more fully appear by reference to a copy of said bill, which is herewith filed, marked Exhibit B, to be taken as part of this answer, and the original of which respondents have ready to produce.

Respondents allege, that if Loring & Co. had, at the time when said advances were made to Captain Weston, and when said bill was drawn by him, been entitled to any lien or claim on said barque for previous advances, it was competent for them to set it up, and it was their duty to have done so, and to have enforced it against said barque, then in the harbor of Valparaiso; but that their permitting said barque to depart without making any such claim, and expressly reserving as they did by their bill, drawn at their instance and request by Captain Weston, and received by them, a lien for the advances made to him, necessarily excludes the idea that they had any other lien on said barque, and shows that the claim set up in the libel in this case for a lien for previous advances is an after-thought, and is destitute of right and equity.

Fifth. Respondents submit, that the conduct and proceedings of Loring & Co., as hereinbefore set forth, clearly manifest an intention on their part to surrender their lien, if any they had, for the claim set up in the libel, (which respondents wholly deny,) and to rely wholly on the personal responsibility of said Leach for the payment thereof; and that a lien which has thus been waived, as well as lost by laches, cannot subsequently be revived.

Sixth. Respondents do not know what is the state of accounts between said Loring & Co. and said Leach, and whether or not the latter may not have paid in whole or in part the amount in said libel claimed

to be due, nor do they know whether said amount has been legally assigned to libellant as agent of Loring & Co., but they deny that Loring & Co. can be considered as absent from the United States, as they have a house or branch of the same name in Boston, where one of their partners resides and transacts the business of the firm; and they are informed that said Leach has, since the date of the accounts filed with the libel, made large payments to said Loring & Co., which, if applied to the payment of said accounts, or whatever may be due thereon, as respondents are advised they ought to be, would settle and pay the same, or so much thereof as may be due.

Seventh. That liens are not favored in courts of admiralty where they are kept secret after ample opportunity has been given to make known and to enforce them, and especially after the termination of the voyage for or during which they are alleged to have originated.

Eighth. That all and singular the premises are true.

Wherefore the respondents pray that this honorable court will pronounce against the demand of the libellant in his aforesaid libel mentioned and set forth, with costs.

CHARLES G. DAVIS,
WILLIAM THOMAS,
LEMUEL SIMMONS,
*Adm'r of Dan'l Goddard,*
NATHAN RUSSELL,
ELLIS DREW,
SOUTHWORTH BARNES,
B. HATHAWAY,
A. L. RUSSELL.
BROWN & BRUNE,
*Proctors for Respondents.*

COMMONWEALTH OF MASSACHUSETTS,
*Plymouth, ss.*

Be it known, that on this twenty-ninth day of August, in the year eighteen hundred and fifty-three, before me the subscriber, a justice of the peace in and for said county, personally appeared the within named William Thomas, Lemuel Simmons, Nathaniel Russell, Ellis Drew, B. Hathaway, A. L. Russell, Charles G. Davis, and Southworth Barnes, and severally made oath that the foregoing answer by them subscribed is true, according to their best knowledge and belief.

JACOB H. LOND,
*Justice of the peace.*

COMMONWEALTH OF MASSACHUSETTS,
*Plymouth county.*

I certify, that Jacob H. Lond, esquire, before whom the foregoing answer was subscribed and sworn to, was at the time of his said certificate a justice of the peace for the said county, duly authorized to

administer oaths, take acknowledgments, &c., and that his signature to said certificate is genuine.

In testimony whereof I have hereto set my hand, and affixed the [SEAL.] seal of the supreme judicial court, this thirtieth day of August, in the year eighteen hundred and fifty-three.

WM. H. WHITEMAN,
*Clerk of the said county.*

*Exhibit A, referred to in the answer.*

Barke Laura & Owners, to Loring & Co., Dr.

| | | | |
|---|---|---|---|
| | To port charges - - - | $10 84 | |
| | our bill of sundries - - | 1,146 13 | |
| | bill of J. Williamson, water | 9 00 | |
| | Thos. Luke, sundries - | 7 37 | |
| | D. Livingston's bill - - | 37 50 | |
| | Gregory Robinson's bill - | 31 63 | |
| | Richard Groves, sundries - | 23 56 | |
| | John Monett's bill - - | 4 31 | |
| | Robert Walker - - - | 19 63 | |
| | H. Jones & Co., sails, &c. | 117 87 | |
| Sept. 23. | Paid Capt'n Weston, on acc't - | 103 50 | |
| " 25. | do. do. do. - | 138 00 | |
| " 27. | Capt'n Easton's draft in favor of Messrs. A. Ruden & Co., of Payta, on acc't of Laura - | 421 75 | |
| " 30. | Capt'n Weston, for advances - | 740 00 | |
| Oct. 13. | do. do. - | 224 25 | |
| " 16. | do. do. - | 103 50 | |
| | Commission for despatching - | 34 50 | |
| | | | $3,173 34 |
| | By overcharge sail-maker - - - | | 5 25 |
| | E. & O. E. | | $3,168 09 |

VALPARAISO, *Oct.* 16, 1852.

Rec'd payment by draft on William Thomas, esq., Plymouth.

LORING & CO.

*Exhibit B, referred to in the answer.*

$3,168 09. VALPARAISO, *October* 16, 1852.

Ten days after sight of this first of exchange, second and third of same tenor and date unpaid, pay to Messrs. Loring & Co., or order, three thousand one hundred and sixty-eight dollars $\frac{09}{100}$, for value received, in necessary supplies furnished at this port for the Barque Laura

under my command, with the express agreement, however, that it shall not invalidate or affect the lien upon or right of process against the said vessel and cargo for the amount of this bill and damages, in case of its not being duly accepted and paid.

Respectfully, yours,

FRANCIS H. WESTON.

To WILLIAM THOMAS, esq., Plymouth.

Pay to the order of Bradford & Gardiner.

LORING & CO.

No. 53 India Wharf.

PLYMOUTH, *Dec.* 14, 1852.

Accepted. WM. THOMAS.

BRADFORD & GARDINER.

*Deposition of Francis H. Weston.*

UNITED STATES OF AMERICA.

*In Admiralty.*

On this ninth day of February, A. D. eighteen hundred and fifty-four, before me, C. W. Loring, a commissioner duly appointed by the circuit court of the United States for the Massachusetts district, personally appeared Francis H. Weston, of Plymouth, in said district, master mariner, a witness on the part of the claimants, in a certain civil cause of admiralty and maritime jurisdiction, now pending in the district court of the United States for the district of Maryland, wherein James W. Osborn is libellant, against the Barque Laura, her apparel, tackle and furniture, and William Thomas et al. are said claimants. And the said Francis H. Weston having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, did depose and say, in answer to the following direct interrogatories by Francis H. Parker, esquire, proctor for claimants.

1st interrogatory. What is your name, age, and occupation?

Answer. My name is Francis H. Weston; am thirty-six years, and am a ship-master.

2d interrogatory. If you have ever been in Valparaiso, state when you were last there; the date of your arrival and departure.

Answer. I left there the sixteenth of October, A. D. 1852, some time about the middle of October. I arrived there, I think, about the twelfth of September—it was Sunday—in 1852.

3d interrogatory. State the business, if any, on which you visited Valparaiso. If you were in the employment of any person or persons, state who they were, and what was the employment.

Answer. I went to take charge of the Barque Laura; William Thomas was the agent—the only person I knew; I went to take her around to an Atlantic port.

4th interrogatory. If you received any written instructions relative to this employment, please to produce them.

Answer. I received instructions and produce them. They are marked A, (C. W. L.,) by the magistrate, and hereto annexed.

5th interrogatory. With what merchant or firm, if any, did you do business at Valparaiso?

Answer. With Loring & Co.

6th interrogatory. Who were the members of the firm of Loring & Co.; what was their business; where was their place of business?

Answer. Two young men were the members, I do not know their names; their business was ship-chandlers and grocers; their place of business was on the street near to the sea.

7th interrogatory. Who were the two young men whom you named as members of the firm: did you know all the members of the firm?

Answer. I don't know their names; one of them was a native, I think; the other one they called Loring, I believe; that is all that I know; those two young men did the business as Loring & Co.

8th interrogatory. With whom did you do business at the counting-room of Loring & Co.?

Answer. I talked with Mr. Atherton about getting the money to get my vessel away from Valparaiso; I advised with him.

9th interrogatory. Who was Mr. Atherton; describe him, his age, height, color, and person; what was his business, if any, in the counting-room of Loring & Co.?

Answer. He was a gentleman who had a desk in their store, in the back part of the store; I should say he was a man from forty to forty-three years old, stout built, of a dark complexion; I don't know what his business was there; he had a desk, and was there writing; he was there when I was in the store doing business; he was the one I advised with.

10th interrogatory. How came you to advise, as you say, with Mr. Atherton?

Answer. When I arrived at Valparaiso I had no means to pay my board, and it was necessary for me to get some one to give me money to get the vessel away when she arrived; she had not then arrived, and Capt. Leach had a son at Valparaiso, and he carried me to Loring's store, Loring & Co., and there I saw Mr. Atherton; I showed him my papers, and through Mr. Atherton I got what money I wanted of Loring & Company.

11th interrogatory. Was this Mr. Atherton a stranger to, or connected with, the firm of Loring & Co.? State if you know.

Answer. I never knew, except from what I heard people say, that he was a member of the old house of Loring & Co.

12th interrogatory. Was Mr. Atherton connected with the firm of Loring & Co. when you were in Valparaiso?

Answer. I do not know.

13th interrogatory. Had you any other written authority from your owners than that produced by you?

Answer. I had this power of attorney, marked B, (C. W. L.,) by the magistrate, and hereto annexed.

14th interrogatory. Did you or not exhibit the two papers produced to Loring & Co.; if yea, to what persons?

Answer. I gave it to Loring & Co.; they took it to Mr. Atherton; they all saw it, the whole of them. Perhaps I only exhibited one, the power of attorney; I considered the other my own private bargain. They saw both of them.

15th interrogatory. What do you mean by your answer, that they saw both papers, but you exhibited one?

Answer. I mean to say that that agreement with the owners was my own private agreement with them, the tenor of it being so near to the power of attorney that I showed both of them; the agreement with the owners I always kept in my own possession. They had both papers to read as much as they wanted.

16th interrogatory. Did you record either or both of these papers; if yea, which one, and where? Did any body know that you recorded it; if yea, who knew it?

Answer. The power of attorney was recorded at the consul's office at Valparaiso; I don't know that any one knew that it was recorded; Mr. Atherton took me up to *the to* introduce me to him, and stated what I had come to Valparaiso for.

17th interrogatory. How long had you been in Valparaiso when you first went to Loring & Co.; how often did you go there while in Valparaiso?

Answer. I arrived there on Sunday morning; I was in there in the course of the afternoon, in the store; I was there two or three times a day; it was the only place I had to go to.

18th interrogatory. With what person, if any, did you chiefly transact business at Loring & Co.?

Answer. With the young men.

19th interrogatory. How soon, after your arrival, did the Barque Laura arrive?

Answer. I think it was about two weeks, somewhere between twenty-fifth and seventh of September; I went directly on board when she arrived, and boarded there.

20th interrogatory. Where, if any where, did the Laura go from Valparaiso?

Answer. To Callao.

21st interrogatory. Was any thing done to the Laura before you sailed from Valparaiso to Callao?

Answer. I had a carpenter to work some three or four days; I had four new sails, some ropes; I have here a list of the items I got; it is on two papers, one marked C, (C. W. L.;) the other D, (C. W. L.,) by the magistrate, hereto annexed.

22d interrogatory. Who furnished the articles named in the schedules C and D? If any body was paid for the articles, state who it was, and how payment was made.

Answer. Loring & Co. furnished the articles; Loring & Co. were paid by a bill at ten days on Mr. Thomas; I produce the bill in my handwriting, marked E, (C. W. L.,) by the magistrate, and hereto annexed.

23d interrogatory. State whether any other amounts, and if any, what, were paid by order through you on account of the Barque Laura, master, and owners?

Answer. I paid a draft of the other captain at Payta, which is in the account, of four hundred and twenty-one $\frac{75}{100}$ dollars; Captain Easton's draft.

24th interrogatory. Where did you get the money to pay that draft; did you have any conversation on the subject with either of the young men whom you have named as at Loring & Co.'s, or with Mr. Atherton? If yea, what was it?

Answer. I got the money of Loring & Co.; Mr. Atherton I had a talk with about it; he told me the vessel could not leave, except it was paid; advised me to pay it.

25th interrogatory. By whom was this draft presented to you for payment?

Answer. By Loring & Co.

26th interrogatory. Did you refuse to pay any bills or accounts presented against the Barque Laura or owners at Valparaiso?

Answer. I told Mr. Atherton, if I could get rid of paying, that I would; I thought it was a bill that ought not to have been incurred; that was the only bill that I refused to pay at any time.

27th interrogatory. If any claim, demand, or account was presented to you, while at Valparaiso, against the Barque Laura, or against her owners, or against her then master; or if any such claim, demand, or account was named or alluded to, as outstanding, state particularly what it was, and who held it?

Answer. I heard of none there; there was no demand made on me, except what I paid; I knew of none.

28th interrogatory. Did you personally deliver the bill on Mr. Thomas, which is annexed; if yea, to whom?

Answer. Yes, they drew three, and I signed them; I signed them on Loring & Co.'s desk, and they kept them.

29th interrogatory. State whether or not you conversed with either of the young men whom you have named as at Loring & Co., or with Mr. Atherton, concerning the Barque Laura and her liabilities; if yea, how fully did you converse?

[Objected to.]

Answer. No; I did not converse with any of them.

30th interrogatory. How long before you sailed from Valparaiso for Callao did you pay Loring & Co. the account heretofore annexed?

Answer. A day or two before I was going away on Sunday, and settled it on Saturday; I did not get away until Monday; the date of the papers will show when I settled it; the date of the drafts and bills.

31st interrogatory. Were either of the two young men whom you

have named as at Loring & Co., or Mr. Atherton, informed that the Laura was ready to sail from Valparaiso for Callao; if yea, how were they informed of it?

Answer. I don't know as either of them were informed; they knew I was fitting her out, and they knew that I had a charter-party for Callao.

32d interrogatory. Did they, or any one of them, or not, advise with you about your voyage to Callao?

Answer. Not that I recollect of.

33d. interrogatory. Do you know whether the Laura was arrested in Baltimore? If yea, state when, if ever, you first heard of the demand on account of which she was arrested.

Answer. She was arrested in Baltimore in June last, I was master then; that was the first of my knowledge of the demand, when she was libelled.

34th interrogatory. Were Loring & Co. commission merchants?

Answer. Not that I know of; I did business with them as ship-chandlers and grocers.

And to the following cross-interrogatories by Charles A. Welch, esquire, proctor for the libellant, said witness answers:

1st cross-interrogatory. While in Valparaiso, did all the funds which you received come from Loring & Co.; if not, from whom?

Answer. I had no moneys but what I got from Loring & Co.

2d cross-interrogatory. Describe the appearance of each of the young men whom you say were the members of the firm of Loring & Co.?

Answer. They were both dark complexioned, I think; they were both small men, and might have been from twenty-five to thirty years old.

3d cross-interrogatory. What was the date of the draft of Captain Easton for $421 75, and when was it presented to you?

Answer. It was presented to me in October, the date I could not tell; it must have been about the last of July, as the ship was sixty days from Panama to Payta; I saw the bill, but I forget on whom it was drawn; it was handed to me by Loring & Co.

4th cross-interrogatory. Was it drawn on Loring & Co.?

Answer. No, sir, it was not; it was on some house in Valparaiso that sent it in; it was, I think, a ten day bill.

5th cross-interrogatory. When did Mr. Atherton see the letter of instructions from your owners?

Answer. Within a day or two of my arrival there.

6th cross-interrogatory. Did he ever see it again, to your knowledge?

Answer. I don't know that he did; he knew where to go to see the power of attorney; he knew where I had deposited it.

7th cross-interrogatory. Did he see the power of attorney at the same time he saw the instructions, or not?

Answer. I don't know that he saw them both together; he saw them both.

8th cross-interrogatory. Do you know that he ever read them?

Answer. He read them when I handed them to him.

9th cross-interrogatory. How long did he keep them when you handed them to him, and what did he then do with them?

Answer. He didn't keep them at all; he gave them back to me as soon as he read them; he didn't want them.

10th cross-interrogatory. Did he refer you in all business matters to Loring & Co.?

Answer. I done my business with Loring & Co., not with Mr. Atherton; they advised with Mr. Atherton in my presence, but I had no business with him.

11th cross-interrogatory. You had no conversation in regard to your vessel or its liabilities with him, except as to the Payta draft; is it so?

[Form of question objected to by counsel for claim'ts.]

Answer. I had none.

12th cross-interrogatory. Where did you go from Callao with the Barque Laura?

Answer. I went to Hampton Roads, and from there to Baltimore.

13th cross-interrogatory. When Mr. Atherton took you to the consul, did he state any thing more to him than that you had come out to take charge of the Barque Laura, as captain? If he did state any thing else, state it.

Answer. No—he stated nothing more; he introduced me to the consul. Mr. Atherton said it was necessary to leave the power of attorney with the consul.

14th cross-interrogatory. Was Capt'n Leach in Valparaiso while you were there?

Answer. He was not.

15th cross-interrogatory. You have stated that you never heard of the claim for which the vessel was arrested in Baltimore, till the time of her arrest; did you not know before the time that there was an outstanding bill for supplies furnished to the vessel previous to your taking command of her?

Answer. I did not.

FRANCIS H. WESTON.

UNITED STATES OF AMERICA.

I, Caleb W. Loring, a commissioner duly appointed for the district of Massachusetts, do hereby certify, that Francis H. Weston appeared before me on the ninth day of February, A. D. eighteen hundred and fifty-four, and being first duly cautioned and sworn to tell the truth, the whole truth, and nothing but the truth, did answer to the foregoing interrogatories and cross-interrogatories put to him; and the testimony given by him was by me reduced to writing in his presence, and thereafter subscribed by him as and for his deposition in my presence. And I do further certify, that the reason for taking the foregoing deposition,

and the fact is, that the witness, Francis H. Weston, lives a greater distance than one hundred miles from the place of trial of the cause for and in which said deposition is taken; and further, that Charles A. Welch, proctor for the libellant, did attend the taking of said deposition. And I further certify, that I am not of counsel or attorney to either of the parties in the said cause, or interested in the event of the same.

C. W. LORING,
*Appointed by the circuit court of the U. States for the District of Massachusetts.*

Com'rs fee, $14.

*Exhibit A, referred to in the deposition of Capt'n Weston.*

Capt'n FRANCIS H. WESTON.

D'R SIR: You having agreed with the owners of Bark Laura to proceed immediately to Panama, and take charge of the bark as master, agreeable to a power of attorney herewith furnished, we wish you to proceed accordingly, and if she shall have sailed thence before your arrival, you will proceed and take possession of her at her port of destination. You will settle with the present master, if you can do so on any tolerably reasonable terms, and adjust and pay all her bills, and receive all that may be due her, and then proceed with her for a load of guano on freight, if any such freight can be procured on fair terms, for the purpose of bringing her round to some Atlantic port of the United States.

You will receive an order from Captain Phineas Leach for what funds may be necessary, and on this order you will take up all that may be necessary to pay yourself up to the time you receive the money, and all the probable expenses of your voyage in fitting and loading, keeping in addition something in reserve for contingencies. If on your arrival at Panama the bark should be under any agreement, you will take possession as master notwithstanding, and fulfil the engagement, and proceed with a freight for an Atlantic port, if any such can be procured. For compensation, we agree to allow you seventy-five dollars per month and your expenses in reaching the vessel.

As soon as you may be able after your arrival at Panama, we expect from you a particular account of all moneys you may have received, and all bills and disbursements that may be seen or paid by you, and of all provisions that you may receive with the vessel, to enable us to settle with Captain Leach.

Wishing you a prosperous voyage, I remain yours,
WM. THOMAS,
*Agent for owners.*

Plymouth, 9th July, 1852.

I agree to the above.

FRANCIS H. WESTON.

*Exhibit B, referred to in the deposition of Francis H. Weston.*

Know all men by these presents, that we, the undersigned, resident in Plymouth, in the State of Massachusetts, and citizens of the United States of America, owners of Bark Laura, now lying at Panama, or at some port or place on the west coast, of which vessel Easton has been of late or is now master, hereby appoint Francis H. Weston, a citizen of the United States, our lawful attorney, for us and in our names to take possession of said Bark Laura, at Panama, or wheresoever she may be, and to act as master thereof, with all the powers and duties thereto belonging; to adjust and settle all matters and concerns with said Easton, her present master, or whoever may be in that capacity; to collect all dues and pay all expenses that have accrued; to receive all moneys, and for us and in our names to give all necessary receipts and discharges therefor, and to do and act in all matters and things relating to the past concerns of said vessel as fully and effectually as we could do if personally present, and in future to act as master thereof. Hereby ratifying and confirming all things that said Weston, our said attorney, may lawfully do in the premises.

Given under our hands and seals, this sixth day of July, in the year of our Lord one thousand eight hundred and fifty-two, at Plymouth aforesaid.

WM. THOMAS, [SEAL.]
SOUTHWORTH BARNES, [SEAL.]
A. L. RUSSELL, [SEAL.]
B. HATHAWAY, [SEAL.]
LEMUEL SIMMONS, [SEAL.]
*Administrator of N. Russell, jr.,*
CHARLES G. DAVIS, [SEAL.]
ELLIS DREW. [SEAL.]

Executed in the presence of us—
JAS. THURBER,
J. H. LOND.

UNITED STATES OF AMERICA,
*Commonwealth of Massachusetts, Plymouth, sct.*

Be it known, that the before mentioned William Thomas, Southworth Barnes, A. L. Russell, B. Hathaway, Lemuel Simmons, administrator N. Russell, jr., Ellis Drew, and Charles G. Davis, all well known to me to be the persons named in the foregoing instrument, personally appeared and executed the same in my presence, and in the presence of the other subscribing witness, on the day of the date hereof, and acknowledged the same to be their free act and deed.

In testimony whereof, I have hereunto subscribed my name and affixed my notarial seal, this sixth day of July, in the year eighteen hundred and fifty-two. [SEAL.]

JACOB LOND, *Notary public.*

*Exhibit C, referred to in the deposition of Francis H. Weston.*

Barque Laura and owners to Loring & Co.

| | | | | | |
|---|---|---|---|---|---|
| Sept. 26 | 1 gal. whale oil, $1 4; 1 lamp, 4 - | $2 | 0 | | |
| 27 | 1 pail, 5; 1 paper tea, 5 - - | 1 | 2 | | |
| 30 | 9 bolts canvas, $11 ¾ - - - | 103 | 4 | | |
| | | | | $106 | 6 |
| Oct. 1 | 1 hammer, $1 4; 3 lbs. fish, 3 - | 1 | 7 | | |
| | 1 bottle pickles, 5; 6¾ lbs. butter, $3 | 4 | 0 | | |
| | 4½ yards damask, *a* 6 - - - | 3 | 3 | | |
| | | | | 10 | 4½ |
| 5 | ½ C. rice, $1 4; 5 gals. lin. oil, $6 - | 10 | 2 | | |
| | 1 bag salt, $1 2; 1 doz. plates, $2 - | 3 | 2 | | |
| | 1 wash-bowl, 6 r.; 2 slop-bowls, 4 r. | 1 | 2 | | |
| | 1 ladle, $1; 1 cook's ladle, 4 r. - | 1 | 4 | | |
| | 10 lbs. saleratus $5 6; 1 box macaroni, $3 - - - - - | 6 | 6 | | |
| | 6 table tea-spoons, 4 r.; 3 tablespoons, 6 - - - - | 1 | 2 | | |
| | 5 bolts canvas $12 4 - - - | 62 | 4 | | |
| | ½ gross matches - - - - | 1 | 4 | | |
| | Expenses shipping - - - | 1 | 0 | | |
| | | | | 89 | 2 |
| Bond. | 1 bag coffee, 129 lbs., 14 r. - - | 18 | 0½ | | |
| | 1 bag flour - - - - - | 4 | 4 | | |
| | 170 lbs. potatoes, $1 2 = $2 1; 1 bag 2 r. - - - - - | 2 | 3 | | |
| | 1 bag sugar, 195 lbs., *a* 8 r. - - | 15 | 5 | | |
| | Boat and shipping - - - - | 1 | 4 | | |
| | | | | 42 | 0½ |
| 6 | 2 g. copper tacks, $2; blacking, 2 r. | 2 | 2 | | |
| | 1 hammer, 3 r.; files, $1 2 - - | 1 | 5 | | |
| | 1 duster, $1; 3 gimlets, 3 rs. - | 1 | 3 | | |
| | 1 box soap, $2; 1 pr. brushes, 4 rs. | 2 | 4 | | |
| | 1 maul - - - - - - - | 1 | 4 | | |
| | | | | 9 | 2 |
| 12 | Expenses shipping lumber - - | 12 | 0 | 12 | 0 |
| 15 | 1 piece duck, $9; 70 lbs. junk, $2 6½ | 11 | 6½ | | |
| | 2 dozen sail needles, $1 4; 1 dozen brooms $1 - - - - | 2 | 4 | | |
| | 1 bag rice, 153 lbs., *a* 10 c. - - | 15 | 2½ | | |
| | | 29 | 5 | 260 | 7 |
| | Amount brought forward - | 29 | 5 | 260 | 7 |
| | ½ doz. Chili brooms - - - | | 6 | | |
| | 4 bladders butter, 34 lbs., *a* 4 rs. - | 17 | 0 | | |
| | 13 barrels beef, *a* $20 - - - | 260 | 0 | | |

*Exhibit C*—Continued.

| | | | |
|---|---|---|---|
| | 2 barrels pork, $25 - - - | $50 0 | |
| | 10 bags biscuit, 1,049 lbs., *a* $4 4 - | 47 1½ | |
| | 2 bags biscuit, 200 lbs., *a* $6 - - | 12 0 | |
| | 2 cheeses, $8; 4 bottles pickes, $3 2 | 11 4 | |
| Bond. | 1 chest black tea, 21 lbs., *a* $1 - | 21 0 | |
| | 10 gallons vinegar, $7 4; 1 bag beans, $6 4 - - - - - | 14 0 | |
| | 12 bags flour, 100 lbs. each, $4 2 - | 51 0 | |
| | 1 lb. mustard, $1 2; 20 lbs. nails, $2 | 3 2 | |
| | 2 lbs. pepper, 6 rs.; 4 galls. sperm oil $7 - - - - - - | 7 6 | |
| | 4 gals. whale oil, $6; 45 lbs. copper $16 7 - - - - - - | 22 7 | |
| | 6 tons coal, $15 - - - - - | 90 0 | |
| | 6,000 sticks tick-wood, 7 c. - - | 42 0 | |
| | 2 coils rope, 315 lbs., *a* $12 4 - | 39 2 | |
| | 1 deep sea line, 36 lbs., *a* 14 c. - | 5 0½ | |
| | 2 dozen lines, $2; 6 lbs. sail twine, $3 6 - - - - - - | 5 6 | |
| | 2 lbs. common twine, 6 rs.; ½ doz. fowls, $2 4 - - - - - | 3 2 | |
| | 4 pigs, $16; 100 lbs. Hav. sugar $11 | 27 0 | |
| | 1 can white paint, $3 4; 1 box fish, $12 - - - - - - | 15 4 | |
| | 6 bags potatoes, 970 lbs., $1 2 - | 12 1 | |
| | 1 chamber-pot, $1; 2 oars, $5 0½ - | 6 0½ | |
| | 34 lbs. wh. rope, *a* 14 c. - - - | 4 6 | |
| | ½ doz. saucers, ⅔; 1 sea lead, $1 6 - | 2 5 | |
| | 1 bag corn flour - - - - - | 5 0 | |
| | 1 cook's spoon, 3 rs.; 1 dish lamp, 4 | 0 7 | |
| | 1 pr. carvers, $1 4; 1 wooden kip, $1 | 2 4 | |
| Bond. | 1 barrel ale, 3 doz., *a* $2 4 - - | 7 4 | |
| | | | 816 7½ |
| | 12 bags for biscuit - - - - | 3 6 | |
| | Launches for coal, lumber, and fire-wood - - - - - - | 7 0 | |
| | Peons and boat hire - - - - | 1 4 | |
| | Cartage, launch, and shipping sundries - - - - - - | 10 0 | |
| | | | 22 2 |
| Oct. 15 | 1 bath brick, 2 rs.; 28 lbs. raisins, $3 4 - - - - - - | 3 6 | |
| | 1 sieve 2½ rs.; 2 boxes green tea, $7 | 7 2½ | |
| | 2 bottles olive oil, $1 2; 5 gallons oil, $8 6 - - - - - - | 10 0 | |

*Exhibit C*—Continued.

| | | | |
|---|---|---|---|
| | 1 tarpaulin, 3 rs.; 20 lbs. figs, $2 - | $2 3 | |
| | 3 dozen peach cheeses - - - | 5 2 | |
| | 1 eye, 3 rs.; ½ lb. cinnamon, 5 - | 1 0 | |
| | 1 gal. molasses, $1 2; Indg., 4 rs. - | 1 6 | |
| | 36 lbs. walnuts, $2 2; 4 tumblers, $1 | 3 2 | |
| | 10 lbs. ochre, $1 2; expenses, 6 rs. | 2 0 | |
| | | | $26 5½ |
| | | | $1,146 1 |

*Exhibit D, referred to in the deposition of Francis H. Weston.*

Barque Laura and owners to Loring & Co., DR.

| | | | |
|---|---|---|---|
| | To port charges - - - - | $10 84 | |
| | Our bill sundries - - - - | 1146 13 | |
| | Bill J. Williamson, water - - | 9 00 | |
| | " Thomas Luke, sundries - - | 7 37 | |
| | " D. Livingston, labor - - | 37 50 | |
| | " Gregory & Robinson, labor - | 31 63 | |
| | " Rich'd Mores, sundries - - | 23 56 | |
| | John Mowatt - - - - | 4 31 | |
| | Robert Walker - - - - | 19 63 | |
| | H. Jones & Co., sails - - - | 117 87 | |
| Sept. 23 | Paid Capt. Weston on ac. - - | 103 50 | |
| 25 | Do. do. do. - - | 138 00 | |
| 27 | Capt. Easton's draft for Messrs. A. Reeden & Co., of Payta, for ac. of Laura - - - - - | 421 75 | |
| 30 | Capt. Weston, for advances - - | 740 00 | |
| Oct. 13 | Do. do. - - | 224 25 | |
| 16 | Do. do. - - | 103 50 | |
| | Commission for dispatching, &c. - | 34 50 | |
| | | $3,173 34 | |
| | Overcharge sail-maker's bill - - | 5 25 | |
| | | | $3,168 09 |
| | E. & O. E. | | |

VALPARAISO, *October* 16, 1852.

Received payment by draft on Wm. Thomas, esq., Plymouth.

LORING & CO.

*Exhibit E, referred to in the deposition of Francis H. Weston.*

Exchange for $3,168 09 dollars, payable in specie or its equivalent.

$3,168 09. VALPARAISO, *October* 16, 1852.

Ten days after sight of this first of exchange, second and third of same tenor and date unpaid, pay to Messrs. Loring & Co., or order, three thousand one hundred and sixty-eight $\frac{9}{100}$ dollars, for value received in necessary supplies furnished at this port for the Barque Laura under my command; with the express agreement, however, that it shall not invalidate or affect the lien upon, or right to process against, the said vessel and cargo for the amount of this bill and damages, in case of its not being duly accepted and paid.

Respectfully, yours,
FRANCIS H. WESTON,
*Master Barque Laura.*

To WILLIAM THOMAS, esq., *Plymouth.*

(Endorsed:)
Pay to the order of Bradford & Gardner.
LORING & CO.,
*No. 53 India wh'f.*
BRADFORD & GARDNER.

Accepted: WM. THOMAS.
Dec. 14, '52.

*Deposition of Capt'n Phineas Leach.*

THE UNITED STATES OF AMERICA.

*In Admiralty.*

On this twenty-fourth day of February, A. D. eighteen hundred and fifty-four, before me, C. W. Loring, a commissioner, duly appointed by the circuit court of the United States for the Massachusetts district, personally appeared Phineas Leach, of Plymouth in said district, master mariner, a witness on the part of the claimants in a certain civil cause of admiralty and maritime jurisdiction, now pending in the district court of the United States for the district of Maryland, wherein James W. Osborn is libellant against the Barque Laura, her apparel, tackle, and furniture, and William Thomas and others are said claimants; and the said Phineas Leach having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, did depose and say, in answer to the following direct interrogatories, by R. H. Davis, jr., esq., proctor for said claimants:

1st interrogatory. What is your and residence; are you in any way related to, or connected with, any of the parties respondents by blood or marriage?

Answer. I am in my forty-seventh year; I reside at Plymouth; I am not connected in blood or marriage to any of the respondents.

2d interrogatory. Did you go to the Pacific, in charge of the Barque Laura, in 1849?

Answer. Yes, sir.

3d interrogatory. Please to state on what arrangement with the general owners you sailed the vessel on her voyage to the Pacific in 1849 and thereafter.

Answer. I had her on what is called a lay, that is, I victualed and manned the vessel, and paid one-half of the port charges, and was entitled to one-half of the receipts or earnings.

4th interrogatory. Please describe your voyages, from the time you sailed until you left the vessel at Valparaiso.

Answer. I left New Orleans in the month of January, 1849; went to the coast of Africa; from there to Bahia; and then to Rio, in Brazil; from there to Valparaiso; from there to California; and from there back to Talcahuana and Valparaiso; and from there to San Francisco again; and from there to Talcahuana and Valparaiso, and there left her.

5th interrogatory. State the date when you left her at Valparaiso.

Answer. Early in May, 1850, I do not recollect the exact day; (the witness on reading this answer corrected it by saying that it should be 1851 instead of 1850.)

6th interrogatory. Whom did you employ as master of the vessel when you left her?

Answer. Reuben S. Easton.

7th interrogatory. How long did Captain Easton remain in command of the Laura? Did you pay him wages, or had he an interest?

Answer. He remained in command until superseded by Capt. Weston; I don't know the exact date; I think it was in October, 1851. I paid him wages.

8th interrogatory. Did the vessel undergo repairs at Rio, and what repairs; what was their cost; who paid them?

Answer. She underwent repairs in Rio; she was coppered there; had new sails, rigging, and was caulked and hove out; they cost about five thousand dollars; they were paid by draft on the owners.

9th interrogatory. To whom did you take freight from Rio to Valparaiso? How much?

Answer. The cargo was consigned to Messrs. Loring & Co., at Valparaiso; the freight was about five thousand dollars.

10th interrogatory. Had the general owners of the vessel any connection with your shipping of that cargo at Rio?

Answer. They couldn't have known any thing about it; I purchased nothing for them; it was taken on freight altogether.

11th interrogatory. When did you arrive at Valparaiso first; when sail for San Francisco? What did you carry; to whom consigned? Was it on freight? How much?

Answer. In November, 1849, we arrived at Valparaiso first. In December we sailed for San Francisco; we carried cargo of Chili produce, mostly flour, consigned to E. P. Headley & Co.; it was on freight; the freight was about seven thousand dollars.

12th interrogatory. How did you return to Chili, and when arrive there?

Answer. I went from San Francisco to Talcahuana in ballast; I arrived at Talchuana in June, 1850, I think.

13th interrogatory. Did you have any, and what, correspondence with Messrs. Loring & Co., before you sailed from San Francisco?

Answer. I wrote Messrs. Loring & Co. from San Francisco, requesting them to write me at Talchuana; that was all, I think; I requested facilities of them for the purchasing part of the cargo.

14th interrogatory. Where is the letter; have you a copy?

Answer. I don't know where the letter is; I received a reply from it; I have no copy.

15th interrogatory. State as fully as you can the contents of that letter.

Answer. I requested them to give me a credit at Talchuana to purchase part of the cargo in case I wished to; I hadn't funds sufficient; they authorized me to draw on them for three thousand dollars, and send them a draft on myself, payable in San Francisco; they also stated what they should charge for the draft; I think it was five per cent.

16th interrogatory. What did you do at Talchuana?

Answer. I left again in ballast, not being able to procure the flour; I negotiated a draft at Talchuana on the Messrs. Loring; I thought after leaving Talchuana of going to Maul, and I got seven thousand dollars in doubloons from Messrs. Tuesano to carry there; I got them by giving a draft on Messrs. Loring & Co.; I couldn't get into Maule in consequence of the bad weather and bad bar there, and I went to Valparaiso.

17th interrogatory. During any of the time that you were in the Pacific, had you any funds from the general owners of the vessel for the purchase of cargo; had they any interest whatever in the purchase or sales of cargo which you made in the Pacific, either for the Laura or any other vessel?

Answer. I answer, No, sir, to the whole question.

18th interrogatory. Please to state when you arrived at Valparaiso, and what you did there?

Answer. I arrived there early in July, 1850; I purchased a cargo for San Francisco; Messrs. Loring purchased the cargo for me.

19th interrogatory. Look at the account, January 31, 1850, (July 2d,) signed by Loring & Co., and marked by the magistrate, (C. W. L., February 24, 1854, A,) and state all you know about it.

Answer. There is an account rendered to me by Loring & Co., in Valparaiso, for the cargo purchased and for supplies furnished the bark; the item seventeen hundred and twenty-four dollars is for cash for supplies; and the item, $934 4½, is for supplies; the rest is for cargo, except $7,000, which was for the draft from Talchuana.

20th interrogatory. Please explain the items on the credit side.

Answer. The first item, $4,118, is for sale of gold dust; I sent the

gold dust there for them to sell from Talchuana; then is the sale of doubloons I carried from Talchuana, and intended to go into Maule with—this is $6,500; then sale of gold dust, $259, which was mine and came from California; I carried it myself; then credit of $516, which was the average of payments, as customary; then $5,000 draft on Flint & Peabody, of San Francisco; my draft on them to pay for cargo; I had authority to draw on them for $5,000; next, there is a draft on myself, drawn by myself, $7,066, that was drawn to balance the account.

21st interrogatory. When did you arrive at San Francisco; what did you do there?

Answer. I arrived in San Francisco in November; I sold my cargo; I paid the draft drawn on myself; the other was paid, I presume, or should have heard of it.

22d interrogatory. Did you make any, and what, arrangements with any house there for some future dealings?

Answer. I made an arrangement with the house of Flint, Peabody & Co., that upon my return to Chili from San Francisco, if I could make arrangements there for purchasing, I would do so on joint account and ship to them, or consign to them at San Francisco; I was to draw on them to buy cargo; they were to honor my draft or be responsible; there was no limit as to time.

23d interrogatory. By this arrangement, were you to remain in Chili or to continue in the Laura?

Answer. I was to remain Chili, if that arrangement were perfected.

24th interrogatory. Was the arrangement confined to the Laura or peculiar to her, or was it to buy and ship cargo, generally?

Answer. It was not confined to any particular vessel.

25th interrogatory. When did you leave San Francisco; where did you next go; and how and when arrive?

Answer. I left in the last of December, 1850; I went to Talchuana, and arrived there last of February, 1851; I went in ballast.

26th interrogatory. If you had an interview then with any of the firm of Loring & Co., of Valparaiso, please state all the particulars.

Answer. I met Mr. Bowen there of that firm; Mr. Bowen came on board to see me; I told him I wanted another cargo; I told him I hadn't funds enough; he asked me what he could do for me, or what credit I wanted; I told him eight or ten thousand dollars, and he gave me credit or authority to draw for ten thousand dollars; he gave me a letter of credit to draw on eight days' sight on their house at Valparaiso.

27th interrogatory. Please look at the document marked (C. W. L., February 24, 1854, B;) state whether that is the credit.

Answer. Yes, sir.

28th interrogatory. Did you ever give him, or did he ask for, any security for this credit?

Answer. Nothing was said about it, one way or the other.

29th interrogatory. Was it understood between you that there was to be any security?

Answer. No, not that I know of.

30th interrogatory. When he gave you this credit, did he know of your arrangement with Flint, Peabody & Co.?

Answer. No.

31st interrogatory. Had you come to anchor when he came on board the Laura; how long been so?

Answer. Yes, perhaps half an hour.

32d interrogatory. Which first mentioned the subject of an advance or credit—you or he?

Answer. He offered me the credit before I asked him.

33d interrogatory. Did you expect to see him, or any of the firm there; had you any arrangement or understanding by which they were to give you credit, or was it volunteered on his part, or how otherwise?

Answer. I did not expect to see him or them; there was no arrangement whatever; it was volunteered on his part; it was mere chance my seeing him; I had no expectation of meeting him.

34th interrogatory. When and where did he give you this letter; when did he leave Talcahuana?

Answer. I can't say positively when he gave me this letter; I don't know, but I think it was the day I arrived; I don't know whether it was written on board or on shore; I think he left the next day; I know he came on board in a hurry, and said he thought of leaving that evening.

35th interrogatory. Do you happen to know how Messrs. Loring & Co. were situated as to money at this time? Did you or he fix the limit to the draft?

Answer. When I was in Valparaiso I knew they were in funds; when I was in Talcahuana I did not know whether they were then in funds; I presumed that they were, from their paying my drafts; I can't answer the question in any other way than that. I said eight or ten thousand; he put down ten thousand.

36th interrogatory. Did you afterwards learn whether they were full of money, or otherwise, in the latter part of February, 1851? If yea, how, and what did you learn?

Answer. They always seemed to have considerable money on hand; I did not learn any thing about it as to latter part of February, 1851.

37th interrogatory. Have you any opinion as to whether you could or could not have got more than the $10,000, if you had desired it? If you derived this opinion from any thing they said or did, or any thing you know about their affairs, please to state the facts.

Answer. I think I could have got more than the $10,000; I always got what I asked for.

38th interrogatory. When were you next in Valparaiso; how were they situated as to money then?

Answer. In April, 1851, I was next in Valparaiso; they appeared to be in funds.

39th interrogatory. Were they or not desirous of advancing and lending money then, or how otherwise?

Answer. I can say they did do it.

40th interrogatory. What did you do at Talcahuana?

Answer. I purchased part of a cargo of barley; I think the amount was between five and six thousand dollars; I paid for it by draft on Messrs. Loring & Co., by virtue of their letter of credit; I wrote then from Talcahuana to Loring & Co., that I was unable to complete a cargo there, and should come to Valparaiso for the balance, and requested them to purchase it for me before arrival.

41st interrogatory. When were you in Valparaiso, and what did you do there?

Answer. I was there in part of April and May, 1851; I completed the cargo; Messrs. Loring & Co. purchased it for me; I think it was about twelve thousand dollars, including the barley bought at Talcahuana; I then first mentioned to them this arrangement I had with Flint, Peabody & Co., and asked them if they would offer us facilities in the way of funds: they said they would let me know in half an hour what they would do; they then told me they would advance funds, open an interest account with us, charging the five per cent. for advances, one per cent. a month for interest; we could pay them by remittances from San Francisco, without drawing any bills. I acceded to it, and told them to charge the present cargo on board the Laura to joint account, Flint, Peabody & Co., and myself. It was done. I put the mate, Reubin S. Easton, in as master, and sent him to San Francisco; I remained in Valparaiso. This was in May, 1851; I remained there until March, 1852.

42d interrogatory. Before you told them of your arrangement with Flint, Peabody & Co., on whose account did they suppose the cargo to be?

Answer. They supposed it was mine.

43d interrogatory. What were you doing while you were at Valparaiso from May, 1851, to March, 1852?

Answer. I was making shipments occasionally from Valparaiso and Talcahuana to San Francisco.

44th interrogatory. In what vessels, and to what , and when?

Answer. In the Gallot, a Bremen ship; a small shipment in the Chilian barque Espeleta; the American barques Alice, Tarlton, and Isabel; I believe that is all. Those shipments were made on joint account with Flint, Peabody & Co.; about forty thousand dollars in all, at various times between May, 1851, and March, 1852.

45th interrogatory. Who made the purchases for you and advanced the money?

Answer. Messrs. Loring & Co.

46th interrogatory. Where did you do your business?

Answer. In Loring & Co.'s counting-room.

47th interrogatory. When the Laura sailed in 1851, did they render you an account on your private account, and which way was the balance?

Answer. I can't say whether they rendered me an account; I know there was a balance, from fifteen to seventeen hundred dollars, in my favor.

48th interrogatory. Please look at the account of March 20, 1852, from Loring & Co., marked (C. W. L., February 24, 1854,) and state what you know about it.

Answer. This is the joint account I spoke of before; it was rendered to me by Mr. Atherton, of the firm of Loring & Co.; I find, upon looking at this, that I omitted one shipment by the schooner Spray.

49th interrogatory. When you left in March, 1852, did Loring & Co. render you any private account?

Answer. No, sir.

50th interrogatory. Please to look at the account of March 20, 1852, marked (C. W. L., February 24, 1854, D,) and state all you know about it.

Answer. This is my private account; it was rendered to me by Mr. Atherton, of the firm of Loring & Co.; the first item of $990 is a private account between me and W. H. Benson—an order I gave on them to pay him $990; next item, $450, was for water furnished the Laura the voyage before, and omitted in their account; the next is letter-postage, personal; the next for sundries, I don't recollect; the next, $103 50, was cash and personal; the next, draft, $200, I sent home on my personal account; the next is cash paid for policy and manifest, $2 50; this was personal; the next item, $5,779 81, was for cargo purchased at Valparaiso for Panama, goods purchased on my private account for her next trip by the Barque Laura; the next item, $2,707 69, the amount of their account for supplies of the Barque Laura, copper, sails, and rigging; the next item, $406 cash, was personal; and the next, $154 75, was personal.

The first item of credit is $1,710; this stood to my credit as due to me on their books; the next, $6,431, was a credit which had been overlooked; the next, $81, was private account.

51st interrogatory. In whose handwriting are the accounts "A" and "C" and "D?"

Answer. "A" is in Mr. Bowen's handwriting; "C" and "D" in Mr. Atherton's.

52d interrogatory. You say the Laura sailed under Captain Easton in May, 1851; when did she return, and when sail again, and where bound; in whose command?

Answer. She returned in February, 1852, and sailed again in March following for Panama, via Payta, with the same Captain, Reubin S. Easton.

53d interrogatory. When the advance of $2,707 69 was made in March, 1852, what amount stood to your account in the books of Loring & Co.?

Answer. I will say about a thousand dollars; that is as near as my recollection will serve me.

54th interrogatory. When the Laura sailed for Panama, via Payta,

did Loring & Co. furnish you a letter of credit; for what purpose and amount?

Answer. They furnished me with a letter of credit for a thousand dollars, for the purpose of completing a cargo there.

55th interrogatory. Did Captain Easton use it, and to what extent; did the Laura need any supplies there?

Answer. I learned from Garrison & Fritz, that he brought cargo there from Payta; I heard he drew about five hundred dollars; I don't know from whom; she did not need any supplies that I know of; she did not go there for supplies.

56th interrogatory. How was she supplied when she left Valparaiso?

Answer. Very well.

57th interrogatory. Have you any reason to suppose that she needed any supplies in Payta?

Answer. I have no reason to suppose she required any.

58th interrogatory. What was remitted to Messrs. Loring & Co. from the sales of cargo, to pay the balance of the private account of March, 1852, marked D?

Answer. About four thousand dollars.

59th interrogatory. Have you had any conversations with Mr. Elisha T. Loring since your return, or with Mr. Bowen, on this subject? If yea, please state them.

Answer. I had a conversation with Mr. Loring; I asked him if he had received my account from Valparaiso, and understood him that he had; I asked him if he would let me see it, which he was on the point of doing; at second thought he declined; I think I asked him his reasons, and believe he said he would wait till this matter of the Laura was settled; if I have had conversations with Mr. Bowen, I do not recollect what took place; we may have spoken about this amongst other things.

60th interrogatory. Have you ever seen your account?

Answer. No, sir.

61st interrogatory. When did you leave Valparaiso, and when arrive in the United States?

Answer. I left Valparaiso about 20th of March, 1852, and arrived home about the 20th of April.

62d interrogatory. Did Captain Easton stop at Payta again on his return voyage from Panama to Valparaiso; did he draw again; and if so, for how much and on whom?

63d interrogatory. As to supplies for the Laura in March, 1852, were they furnished before or after the cargo was shipped?

Answer. The vessel's repairs were made before the cargo was shipped; the stores afterwards.

64th interrogatory. Why is item $5,779 81, in account D, made due April 12, 1852?

Answer. Part of it was bought on time and part for cash, and reduced to the average of April 12th.

65th interrogatory. Who ordered the repairs on the Laura of March, 1852?

Answer. The repairs were made previous to that time, from March 1st to 18th; none were made so late as the 18th; the repairs included in that charge were ordered by me.

66th interrogatory. Who ordered the supplies furnished and included in the charge of March, 1852?

Answer. I ordered the whole.

67th interrogatory. Had Captain Easton any thing to do with ordering the supplies or repairs included in charge of March, 1852, or was he in any way responsible therefor?

Answer. He didn't order any; he had nothing to do with ordering them, nor was he responsible for them; I am not aware that he was.

68th interrogatory. Were those supplies and repairs furnished on your own responsibility, or on the credit of the vessel; or how otherwise?

Answer. I presume that they were furnished on my responsibility.

69th interrogatory. Did you engage the workmen and purchase the supplies; who paid the workmen?

Answer. I made arrangement with the workmen to do the work; the supplies were furnished by Messrs. Loring & Co. at my request; the workmen were paid by the same firm.

70th interrogatory. Did the supplies come from their store or shop? Were they ship-chandlers?

Answer. The supplies came from their shop mostly; they were ship-chandlers.

71st interrogatory. Had Messrs. Loring & Co. any other account than the account against you and that against Messrs. Flint, Peabody & Co.?

Answer. I don't know.

72d interrogatory. Do you know, or did you ever hear of their having any other account relative to your transactions with them?

Answer. No, sir; what I mean by that is, that I never saw their books; I never looked at their books to see how they kept their accounts.

73d interrogatory. From any thing you ever saw or heard, had you any reason to suppose that they had more accounts than your private account, and the joint accounts relating to your dealings with them?

Answer. I don't know that I ever saw their books; I can't answer that question differently; I never saw or heard any thing from which I inferred that they kept different accounts on their books.

74th interrogatory. Has Mr. Elisha T. Loring, of the firm of Loring & Co., been present during the taking of this deposition?

Answer. Yes, sir.

75th interrogatory. Where is Captain Easton; when did you last hear from him, or of him?

Answer. I don't know where he is; I haven't heard from him since

March, 1852, when I left him at Valparaiso; I heard that he went from Valparaiso to California after Captain Weston took the barque.

76th interrogatory. Has Mr. Elisha T. Loring been a resident of Boston since your return?

Answer. His business place has been in Boston; his residence is at Dorchester; I have heard him say he resided here since 1846.

77th interrogatory. How was your credit in Valparaiso in 1852, before you left; could you get money freely?

Answer. I think my credit was pretty good; I could get what money I asked for.

78th interrogatory. From the time you left the Laura, and put in Captain Easton, were you acting as a merchant in Valparaiso, or as a ship-master?

Answer. I acted as a merchant.

79th interrogatory. Do you know, from any thing you have heard from any of the old firm, whether Mr. Atherton remained in the new firm?

Answer. Yes, sir, I have so heard that he remained a member of the new firm.

*Cross-examination.*

And to the following cross-interrogatories by Charles A. Welch, esquire, proctor for the libellants, the witness deposes and answers as follows:

1st cross-interrogatory. Did not the old firm of Loring & Co., in Valparaiso, consist of George H. Bowen and Taxon D. Atherton; and was not E. T. Loring, of Boston, a special partner; is the age of Mr. Bowen apparently about 40; that of Mr. Loring about 50?

Answer. The old firm was so constituted; I would think the ages were so.

2d cross-interrogatory. Was not said firm dissolved in June, 1852?

Answer. Yes, sir, I think it was.

3d cross-interrogatory. Is not the present firm of Loring & Co. composed of John Wheelwright and John Rollins, residing in Valparaiso, and Samuel D. Crane, residing in Boston, as general partners, with Mr. Bowen and Atherton as special partners?

Answer. Yes, sir.

4th cross-interrogatory. How long had you sailed as master of the Laura on shares previously to January, 1849, when you sailed from New Orleans; how long had you been connected with her as master, or otherwise?

Answer. Two years previously I sailed her on shares, and was master of her about two years and a half; I had been connected with her; I was connected with her, when building, in superintending the building.

5th cross-interrogatory. Where was she built; did you not yourself have an equitable of some kind in the Laura; did not one or more of

the owners hold a share in his or their name or names for your benefit, or under some agreement or understanding with you?

Answer. She was built at Newberryport; I was to have a part of her when I paid for it.

6th cross-interrogatory. Had you paid any thing on account of this when you arrived Rio; what part were you to have, and with what owner did you have this agreement?

Answer. I had not paid any thing when I arrived at Rio; I was to have one-eighth; I had this agreement with Southworth Barnes, of Plymouth.

7th cross-interrogatory. Was the agreement in writing or not?

Answer. I think there was some agreement in writing.

8th cross-interrogatory. Does that agreement still exist, or is it cancelled; if cancelled, when was it?

Answer. It is cancelled since my return home in April, 1852; I don't remember when.

9th cross-interrogatory. Did you not state to Loring & Co., in Valparaiso, that you had an interest, or part ownership in the vessel, or something to that effect?

Answer. I stated my interest in the success of the vessel was great, alluding to the conditions I was sailing her on, and probably also to this equitable interest. The question was never asked me whether I owned any part of her or not.

10th cross-interrogatory. Do you mean by the word alluding, "meaning?"

Answer. Yes, sir.

11th cross-interrogatory. When you put on your mate, Mr. Easton, as master, did you not continue to direct the voyages, and transact the general business of the Laura, and act as agent of the vessel; did not Easton act, in all cases, under your direction?

Answer. Yes, sir, to both parts of the question.

12th cross-interrogatory. In keeping your accounts with the owners during the time you were in the Pacific, did you credit the owners with half the freight of the various cargoes carried by the Laura, which you have spoken of in your direct examination?

Answer. Yes, sir.

13th cross-interrogatory. Did you not send remittances to the owners from the Pacific on account of the freight, and when?

Answer. I sent, at various times, sufficient to pay the drafts I drew on them from Rio; about sufficient.

14th cross-interrogatory. Have you not presented and settled accounts with the owners, which include the freight of said cargoes, or some of them?

Answer. Yes, sir, I have presented accounts, but have not settled.

15th cross-interrogatory. Do you recollect that your letter to Loring & Co., from San Francisco, asking for a letter of credit at San Francisco, stated that *that* you should go to, or touch at, Valparaiso after leaving Talcahuana?

[Mr. Dana objected to inquiries by possessor's letter to its contents.]

Answer. I don't recollect.

16th cross-interrogatory. On your arrival at Valparaiso, did you not hand to Loring & Co. the doubloons which you had purchased of Zeramo & Co.?

Answer. Yes, sir; they gave me credit for them on account.

17th cross-interrogatory. How was the gold dust which forms the first item of credit in the account which you have exhibited, marked A, sent to Loring & Co.?

Answer. I sent it by ship Christopher Colom, from Calcahuana to Valparaiso, consigned to them.

18th cross-interrogatory. You have stated that Loring & Co. purchased a cargo for you in Valparaiso in July, 1850, for San Francisco; does not Loring & Co.'s account with you, marked A, show that your sole indebtedness to them, after the purchase of that cargo, was $7,060, for which you gave the draft on yourself, payable in San Francisco?

Answer. Yes, sir.

19th cross-interrogatory. To whom did you pay the draft of $7,060, after your arrival at San Francisco?

Answer. I think to Grogn & Lent; the draft was sent to them for collection.

20th cross-interrogatory. When you subsequently met Mr. Bowen in Talcahuana, in February, 1851, and got the letter of credit for $10,000, to purchase a cargo, did you intend to go thence to Valparaiso, and so state to Mr. Bowen?

Answer. I think it likely I did; I don't recollect that I stated positively that I should go there; very likely I did.

21st cross-interrogatory. Did you not, at this time, hand Mr. Bowen a box of gold dust of the value of about $5,000, directing him to sell and give you credit for it?

Answer. Yes, sir.

22d cross-interrogatory. Is it not a usual custom in Valparaiso and Talcahuana, when an American ship arrives in port, for the Americans acquainted with the captain to go on board on her arrival?

Answer. Yes, sir; it is often done.

23d cross-interrogatory. Is it not often done for the sake of business?

Answer. Yes, sir.

24th cross-interrogatory. After you had completed the purchase of cargo in Valparaiso, in July, 1850, before, as you think, mentioning the arrangement with Flint, Peabody & Co., what was the amount probably due from you to Loring & Co.?

Answer. I should think, if I was going to state from memory, eight or ten thousand dollars.

25th cross-interrogatory. Was not the balance due for shipments to San Francisco, on the joint account of yourself and Flint, Peabody & Co., finally paid by remittances from Flint, Peabody & Co., or by them personally to Mr. Bowen?

Answer. The account has been settled by them since I left; there were some remittances before I left.

26th cross-interrogatory. Please look at the account marked D, and see if, when the $2,707 were advanced for supplies and repairs of the Barque Laura, you could possibly have had funds in Loring & Co.'s hands to an extent greater than $444 06; see if the items of debit in 1851 do not amount to $1,330 25, and the credits in 1851 to $1,774 31, leaving only about $440 06 to your credit on the 1st January, 1852?

Answer. There was to my credit about $500; I stated from memory $1,000 the other day, when asked this question.

27th cross-interrogatory. When was the cash, $406, paid to you; was it paid to you at different times, or all at once?

Answer. I can't tell; I don't think you can judge from the dates what credit I had at the time.

28th cross-interrogatory. When was the $154 75 paid to you, and for what purpose?

Answer. According to the date, it was paid to me March 20th; I don't know what for; for pocket money, perhaps.

29th cross-interrogatory. Were the supplies and repairs for which $2,707 69 is charged in said account, marked D, as "our account with Barque Laura," actually furnished; were they necessary for the vessel?

Answer. They were actually furnished; I considered them so.

30th cross-interrogatory. Was Captain Easton on board the vessel at the time of making the repairs and furnishing the supplies; did you and he oversee the making of the repairs?

Answer. He was on board most of the time; we oversaw the making of the repairs.

31st cross-interrogatory. Please look at the account now handed you, dated March 20, 1852, and see if it is an account which was handed you by Loring & Co. at that date; was the signature "Phineas Leach" affixed by you thereto at or about March 20, 1852, and was that signature intended as an approval of the account?

Answer. Yes, sir; (it is marked by the magistrate, E, February 27, 1854;) the items below my signature have been added since I signed it; my signature does not apply to them. (It is admitted, items of $5,744 and $530 62, below Captain Leach's signature, were added for the purpose of being annexed to the libel, so as to make the whole amount appear in one bill.)

32d cross-interrogatory. Was this account "Barque Laura and Owners with Loring & Co." handed you at the same time with the account * * Phineas Leach with Loring & Co., marked D; if not, when; where was it handed you?

Answer. I don't recollect when; it must have been handed to me at Valparaiso.

33d cross-interrogatory. Was it before you left, about March 20th, 1854?

Answer. It was before I left.

34th cross-interrogatory. Did you not receive a duplicate of this account from E. T. Loring in May of this year?

Answer. I received a letter from him; I forget whether I received an account or not.

35th cross-interrogatory. Did it not enclose a copy of the account?

Answer. I can't say whether it enclosed a copy of the account, or mentioned the account.

36th cross-interrogatory. See if the letter handed you, as far as the copy of the signature of Mr. Loring, is the letter received by you; did it enclose a copy of this account, or something of a similar character?

Answer. Yes, sir.

37th cross-interrogatory. Was the Barque Laura thoroughly repaired at the time; were the repairs thoroughly, economically made?

Answer. Yes, sir; to both parts of the question.

38th cross-interrogatory. Look at the account now handed you, marked by the magistrate F, (C. W. L., March 8, 1854,) and see if it is not the true account of the sundries furnished the Barque Laura, forming the 13th item in account Barque Laura and Owners with Loring & Co., Dr.?

Answer. I presume it is.

39th cross-interrogatory. Do you *rember* receiving this account, marked F, at the time you received the account marked E?

Answer. I don't recollect as I received them together.

40th cross-interrogatory. Do you not recollect receiving it about the same time; have you ever seen it before to-day?

Answer. I don't recollect about that account; I presume that the charges are correct; I do not recollect about receiving it; I can't say whether I received it or not.

41st cross-interrogatory. Would you probably have acknowledged the account marked E, containing the 13th item of $1,455 69, as correct, without you had received this account or a copy of it?

Answer. I presume I had received or seen it, or I should not have acknowledged the other.

42d cross-interrogatory. Did Wm. Pritchard furnish bread for said vessel? Is the bill thereof omitted in the said account marked E & F; and was it not omitted because the bill had not then been rendered? Is the amount charged for it correct?

Answer. William Pritchard did furnish bread to the vessel. I ordered the bread of Pritchard; he did not send the bill before I left. I presume the amount is correct. It is omitted except at the foot of the account E, below my signature.

43d cross-interrogatory. Has the amount claimed in this suit ever been paid, to your knowledge?

Answer. The whole of it has not been.

44th cross-interrogatory. Has any part of it been paid; and if so, how much?

Answer. The vessel's account was included in my personal account, part of which has been paid.

45th cross-interrogatory. Are the port charges at Payta? What would they probably amount to in the case of the Laura? Had Captain Easton funds to pay them?

Answer. There are port charges at Payta. I should think they would amount to sixty dollars in the case of the Laura. I don't know whether Captain Easton had funds to pay them.

46th cross-interrogatory. Would they not need fresh supplies for the vessel's use? To what extent probably had Captain Easton funds to pay them, to your knowledge?

Answer. I presume they would not need fresh supplies; the vessel had been out twelve days probably, or fourteen days, the usual passage. She was well supplied when she started.

47th cross-interrogatory. Is the paper herewith handed you a true invoice of the cargo purchased and shipped by Loring & Co., on board the Barque Laura, for Payta and Panama, on your account and risk, for sales and returns to Loring & Co.?

Answer. I presume it is; the amount is correct; I have no copy of it. Judging from the amount, I presume it is; the paper referred to in the interrogatory is marked G, (C. W. L., March 8, 1854,) by the magistrate.

48th cross-interrogatory. Do the articles correspond?

Answer. Yes, sir.

49th cross-interrogatory. Was insurance effected on this cargo from Valparaiso to Panama, for the benefit of whom it may concern, payable to Loring & Co., in case of loss; and was there not an understanding at the time that insurance should be so effected?

Answer. I presume insurance was so effected; it was agreed it should be.

50th cross-interrogatory. Was it the understanding between you and Loring & Co., when the cargo was purchased, that the cargo so purchased should be consigned by you to Loring & Co.'s friends in Panama, with orders to remit the proceeds to Loring & Co.?

Answer. No, there was no understanding to that effect. It was consigned to whom I pleased, to myself.

51st cross-interrogatory. Was there not an understanding that the proceeds should be remitted by your consignees to Loring & Co.?

Answer. I don't know that there was.

52d cross-interrogatory. Will you reflect, and see if you cannot answer that question directly, that there was?

Answer. There was no such understanding. It might have *be* understood; there was nothing promised.

53d cross-interrogatory. Did you get an advance on the cargo, leaving orders to remit the balance to Loring & Co.? What advance did you get?

Answer. I did get an advance, but left no orders to remit the balance at that time. I intended to return again in a short time to Valparaiso, and take the proceeds with me. At the time I took the

advance the vessel hadn't arrived, and the articles could have been sold at prices that justified my doing so.

54th cross-interrogatory. Did you hand your consignees the invoice, or copy of the invoice of the cargo?

Answer. I think I handed them a rough sketch of the cargo; the invoice I think the captain had.

55th cross-interrogatory. Did you give the invoice to the captain? Do you know whether he handed it to the consignees? Who were your consignees?

Answer. If I had an invoice, I did give it to the captain. I presume I had one; I don't know whether he handed to the consignees. Garrison & Fritz were my consignees.

56th cross-interrogatory. Do not the custom-house regulations at Panama render it imperative that an invoice be presented by consignees to the custom-house officers?

Answer. I don't know; I never did any more than that.

57th cross-interrogatories. Did you ever know an instance in a port at the Pacific, where the custom-house regulations did not render this necessary?

Answer. They require an invoice, but not one from the port you start one.

58th cross-interrogatory. When did you give your consignees orders to remit the balance after taking the advance; and where and how?

Answer. When I ascertained that I was not going there immediately, I requested them to remit the balance that remained, to Loring & Co. I wrote them from Plymouth, about August or September, 1852.

59th cross-interrogatory. Did you give Captain Weston an order on Messrs. Garrison & Fritz, to whom you had consigned the cargo in Panama, for part of the proceeds? Do you know also that he received part of these proceeds on this order, while on his way to take charge of the Laura as master? If so, what amount?

Answer. I gave Captain Weston an order for three hundred dollars, in Plymouth, in July, 1852, I think. I think he received the whole of the three hundred dollars.

60th cross-interrogatory. How long after you arrived in Plymouth, did the owners send out Captain Weston?

Answer In about two months and a half.

61st cross-interrogatory. What was the rate of freight to Panama, on the cargo of which we have been speaking? To whom was that freight paid? From the proceeds of the cargo, or how otherwise?

Answer. The rate of freight, I think, was ten dollars a ton. The vessel's part of it was credited in my account with the owners; it has not been paid.

62d cross-interrogatory. Did you receive an account of sales from Garrison & Fritz, of this cargo? Was there a charge of freight paid to the Barque Laura, or captain of the Barque Laura, or any charge of freight paid?

Answer. Yes, sir; I received an account of sales from them; there was no such charge to Barque Laura, or captain of Barque Laura; I don't recollect any charge.

63d cross-interrogatory. Must not Captain Easton *paid* paid his disbursements in Panama, from the freight received? If not, how?

Answer. No. He had no authority to receive any freight; they advanced him money and charged it to me.

64th cross-interrogatory. Did you receive the freight?

Answer. There was nothing said about freight to them; they were to sell the cargo and let the captain have what money he wanted.

65th cross-interrogatory. Can you furnish the *the* account, or a copy of the account rendered you by Garrison & Fritz, and attach to this deposition?

Answer. I presume I can; I will forward it, or a copy, to the magistrate, if I can find it; the papers marked H (C. W. L.) and I (C. W. L.) were left by the deponent as copies of Garrison & Fritz's accounts; and with them deponent also left the paper marked K (C.W. L.), written and signed by him as explanations thereof.

66th cross-interrogatory. Look at the accounts marked C. & L., which you have stated to be in the same handwriting as that of Mr. Atherton, and see if they are not in different handwritings?

Answer. I stated the other day that I thought I mistook in saying that both these accounts were in Mr. Atherton's handwriting; why I said so at the time was, I knew that it was not Mr. Bowen's, and so I thought it was Mr. Atherton's. Now, I think, the one marked D is Mr. Atherton's writing; the other, I think, is the book-keeper's.

67th cross-interrogatory. Look at the account A, and see if that is not in the same handwriting as account C, and not in Bowen's handwriting, the handwriting of the letter of credit?

Answer. I think the paper marked A is Bowen's handwriting; at all events, I know the signature is his.

68th cross-interrogatory. Is not the account marked "G" in Mr. Bowen's handwriting?

Answer. I should think it was Mr. Atherton's handwriting.

69th cross-interrogatory. How do you judge of the handwriting of this last?

Answer. It resembles other writings I call his.

70th cross-interrogatory. Did you not say that you judged from circumstances that took place at the time you received it, or something to that effect?

Answer. Yes, sir; I said so.

71st cross-interrogatory. In whose handwriting is this account marked F?

Answer. It is either Mr. Bowen's or Mr. Atherton's; I consider their writing similar.

72d cross-interrogatory. Has Mr. Thomas, one of the owners, and the agent of the Laura, in this country, been present at your examination?

Answer. Yes, sir.

And the following additional direct interrogatories put by R. H. Dana, proctor for the claimants:

1st add'l interrogatory. Please refer to your answer to the 1st cross-interrogatory. How do you know that Mr. Loring was only a special partner of the old firm?

Answer. If I said he was a special partner, I misunderstood the question. I supposed the question was put in this way: Was not Mr. Bowen and Mr. Atherton partners in Valparaiso, and Mr. Loring in Boston?

2d add'l interrogatory. What intercourse took place between Mr. Loring in Boston, and the other partners in Valparaiso, while you were in Pacific?

Answer. There was a regular correspondence.

3d add'l interrogatory. Were there remittances to and from?

Answer. Yes, sir.

4th add'l interrogatory. How do you know that Messrs. Bowen & Atherton are special partners of the present firm?

Answer. I saw a notice to that effect in the paper, and I heard so from other sources.

5th add'l interrogatory. Would the following description apply to Mr. Bowen or Mr. Atherton; which, if to either?—"Stout built, of a dark complexion, from 40 to 43 years of age."

Answer. It would apply to Mr. Atherton. It would not apply to Mr. Bowen.

6th add'l interrogatory. Was your remaining in the Pacific, and trading with the Laura, done with the consent and approval of the owners?

[Objected to as inquiring concerning new matter.]

Answer. No, sir.

7th add'l interrogatory. Under the contract by which you sailed the Laura, who had the management and control of the vessel and her cargoes, and contracts; you, or the general owners?

Answer. I had.

8th add'l interrogatory. By the contract under which you were sailing when in the Pacific, had the general owners any right to control or direct the voyages of the vessel, or to displace you, so long as you acted in good faith and accounted to the owners for the earnings?

Answer. I considered not.

9th add'l interrogatory. Do you mean the latter part of your answer to the 27th cross-interrogatory to apply to the 26th cross-interrogatory?

[The question is objected, as not sufficiently plain to the witness.]

Answer. It applies to both the 26th and 27th.

10th add'l interrogatory. Can you tell by the dates on the account the exact amount of credit you had with Loring & Co., at the time referred to in the 26th cross-interrogatory?

Answer. No. I think there is a mistake in the dates in the account; that is the reason I answered it that way.

11th add'l interrogatory. Does your answer to the 13th cross-interrogatory state all the remittances you made to the general owners from the Pacific? What payments have you made them on account of half freight since your return?

Answer. That was all I have remitted. I have made no payments on account of freight since I returned. I have rendered them an account which stands to their credit.

12th add'l interrogatory. You speak of its standing to their credit; are they indebted to you at all; are there any cross-debts or credits between you?

Answer. They are not indebted to me at all. No, there are no cross-debts or credits; according to final account I rendered to them, there is a balance to their credit.

13th add'l interrogatory. Did the owners assent to the rate of freight, or did they claim that the vessel should be treated as chartered by you on time, or how otherwise?

Answer. No. They did not assent to the rates, nor did they consent to my chartering her on time. As I understood the question, they did not consent that I should take time to pay them half their freight, but pay them for it instead of crediting them for it. I don't understand the question. I answered it as I understood it.

14th add'l interrogatory. When you rendered your account, crediting them with half freight, to which you say the general owners did not assent, did Mr. Thomas, in their behalf, claim that the proper way to settle would be to treat the vessel as chartered by you on time, while in the Pacific?

Answer. I don't recollect.

15th add'l interrogatory. What mode of settlement did they propose, if they objected to your account for half freight?

Answer. I don't recollect.

16th add'l interrogatory. Did they claim that you should pay them for the use and hire of the vessel, on time, by the month, or otherwise?

[Objected to as leading.]

Answer. I don't recollect.

17th add'l interrogatory. Have you now, or have you had since your return, the means of paying the owners?

Answer. No, sir.

18th add'l interrogatory. By signing the account marked E, inquired of, did you mean to assert that it was correct to charge that account to the vessel, or what did you mean; did you, at the time you signed, take notice of the heading?

Answer. I did not mean it was correct to charge that account to the vessel; I meant that the items were correct. I don't recollect the particulars of it; if I did, I did not consider it important; the items were what I looked at particularly.

19th add'l interrogatory. To whom did you then understand or suppose Messrs. Loring & Co. would charge those items?

[Objected to.]

Answer. I supposed they would charge them to me.

20th add'l interrogatory. You say you had the privilege to become owner of $\frac{1}{8}$th on paying for it; is that the equitable interest of which you have spoken? Except that privilege, have you any interest, legal or equitable, besides the management and sailing of the vessel on shares?

Answer. That is the equitable interest of which I have spoken; I had no other interest besides that, and the management and sailing of the vessel on shares.

21st add'l interrogatory. Did you ever pay for the $\frac{1}{8}$th? Did you ever become a general owner of the vessel, or were you ever treated as such by the general owners?

Answer. I never paid for the $\frac{1}{8}$th; I never became a general owner, or was treated as such, as I know of.

22d add'l interrogatory. Was the cargo of the Laura to Panama, when she left Valparaiso, in March, 1852, taken on freight, or was it your own cargo?

Answer. It was on my account and risk.

23d add'l interrogatory. Did you designate in any manner how the remittances from this cargo should be applied by Messrs. Loring & Co.?

Answer. No; I did not designate to them.

1st add'l cross-interrogatory—De bene esse.

Did any one know that your trading in the Pacific was against the consent of the owners; and if so, who?

Answer. No one knew, that I know of.

2d add'l cross-interrogatory—De bene esse.

When was their dissent made known to you?

Answer. I think it was the second time I was in Valparaiso, which I think was in the latter part of 1849.

3d add'l cross-interrogatory—De bene esse.

Why did not you yourself yield to their wishes as then expressed?

Answer. I thought I had a right to remain there, if I chose.

4th add'l cross-interrogatory—De bene esse.

At what period did the owners take efficient steps to displace you? At any period before Captain Weston was sent out?

Answer. They did not take any efficient steps any further than to request me to come home.

5th add'l cross-interrogatory. Were not bills of lading signed for the cargo from Valparaiso to Panama, fixing the rate of freight at $10 per ton?

Answer. I think there were.

6th add'l cross-interrogatory. Did you not receive an advance at Rio, on your freight, pr. Laura, from Rio to Valparaiso? What part of said advance, if any, did you remit to your owners?

Answer. I forget the particulars of it; I remitted nothing to my owners from Rio; I think I did receive something on my own account, not on account of the owners; I could tell by looking at my papers.

7th add'l cross-interrogatory. Do you not mean by, or on your own account, on account of the freight; what other account could it be paid on?

Answer. It could be paid on account of my half interest in the freight.

8th add'l cross-interrogatory. Is there any question in your mind that the charges of June 6, July 24, September 5, October 1, November 11, November 25, and December 1, 1851, are all charges correctly made to you previous to January 1, 1852? If there is any question on your mind as to any, state as to which you have a doubt.

Answer. No intentional error, but, in looking over the account the other day, I thought that there was an error. In looking over the account the other day, I thought there must be an error in the cash charged, paid to Vincente; I thought it must be later in the season.

9th add'l cross-interrogatory—De bene esse.

If not at that date, what must have been the latest date at which it was paid Vincente?

Answer. I don't recollect; it only occurred to me that it must have been a good deal later than that.

10th add'l cross-interrogatory. Must it not have been that year, 1851?

Answer. I think it was paid at two different times. I can't say whether it was that year.

11th add'l cross-interrogatory. Have you any doubt that both payments were made before 1852, January 1?

Answer. I couldn't say positively that both were made in the year 1851; part of it I know was.

12th add'l cross-interrogatory. Do you not think that both were made before March 1st, 1852?

Answer. Yes, sir. My reasons for thinking they were not both paid that year, that I was waiting for advices from California before we settled finally.

24th add'l direct interrogatory. [Put by consent.]

How far is Plymouth from Boston; what have been the means of intercourse in 1852 and since, by railroad and mails?

Answer. About thirty-seven miles; the means of intercourse have been by railroad, for most of the time, three times a day; twice a day at other times; there two mails a day until recently, now one.

PHINEAS LEACH.

UNITED STATES OF AMERICA, *District of Massachusetts.*

I, Caleb William Loring, a commissioner duly appointed for the district of Massachusetts, do hereby certify, that Phineas Leach, of Plymouth, in said district, master mariner, appeared before me on the twenty-fourth day of February, and by adjournment on the twenty-seventh day of February, and the eighth day of March, A. D. eighteen hundred and fifty-four, and being first duly cautioned to tell the truth, the whole truth, and nothing but the truth, and did answer to the foregoing interrogatories and cross-interrogatories put to him; and the testimony given by him was by me reduced to writing in his presence, and thereafter subscribed by him as and for his deposition in my presence. And I do further certify, that the reason for taking the foregoing deposition is, and the fact is, that the witness lives at a greater distance than one hundred miles from the place of trial of the cause for and in which the said deposition is taken; and further, that Charles A.

Welch, esq., proctor for the libellants, did attend the taking of said deposition; I further certify, that I am not of counsel or attorney to either of the parties in the said cause, or interested in the event of the same.
Fees, $30. C. W. LORING, *U. S. Com'r.*

A.—(*C. W. L. February* 24, 1854.)

DR. Captain Phineas Leach, in account current with Loring & Co.

| | | | |
|---|---|---|---|
| 1850. | | | |
| July 15 | To amount paid his draft favor Zerama & Co. | | $7,000 0 |
| | paid freight on gold dust, ship Cloton, from Valparaiso - | | 21 5 |
| | paid assaying and smelting gold | | 18 0 |
| | Commission on sale of gold, $4,118 4 *a* ½ p.c. | | 20 1 |
| 31 | Our account against Bark Laura, cash - | | 1,720 4 |
| | Do. for sundries, supplies, 19th inst. | | 934 4½ |
| | Invoice cotton goods and tacks for Laura - | | 3,351 0½ |
| | Do. barley, flour, beans, &c., for do. - | | 9,551 6 |
| | Commission, purchase, and shipment on $11,397 4½ at 2½ per cent. | $287 4½ | |
| | Commission, purchase, and guarantee on amount advanced, $11,220 0½ *a* 5 per cent. - | 561 0 | 865 7½ |
| | | | $23,463 4½ |

CR.

| | | | |
|---|---|---|---|
| 1850. | | | |
| July 18 | By amount received for 1,465 castll's. gold of $\frac{885}{1000}$ fine, sold to Lettu, Ossa, & Co., 10 days, *a* 1¼ cts. over - - - - | | $4,118 4 |
| | Rec'd from Capt. Leach, in doubloons, 377 | | 6,505 3 |
| | Rec'd from Capt. Leach, 15½ of gold dust, *a* $16 6 per oz. - - - - - - | | 259 5 |
| | 4 p. cent. discount on $12,902 6½, amount of invoice shipped being average payment to cash - - - - - - - - | | 516 0½ |
| | Draft on Flint & Peabody, of San Francisco - - - - | $5,000 | |
| | P. Leach on self do. - - | 7,066 | 12,066 0 |
| | | | $23,463 4½ |

B.—(*C. W. L. February* 24, 1854.)

TALCAHUANA, *February* 25, 1851.

Captain Phineas Leach is authorized to draw on us at Valparaiso, at eight days sight, for any sum or sums not exceeding ten thousand dollars, currency of Chili, which we obligate ourselves to accept and pay if drawn within sixty days from this date.

LORING & CO.

Credit for $10,000.

C.—(*C. W. L. February* 24, 1854.)

DR. Messrs. Flint, Peabody & Co., and Phineas Leach,

| | | | Time. | Interest. | |
|---|---|---|---|---|---|
| 1851. | | | | | |
| April 28 | To amount paid various drafts on us from Talcahuana | | 10 20 | 630 20 | 5,908 69 |
| May 9 | Barley, 82½ fanegas, at $3 4 | | 2,196 25 | | |
| | Labor, launches, and consul | | 120 37 | 526 49 | 5,079 37 |
| | Commission on $5,103, $1, at 2½ per cent | | 10 11 | 13 14 | 127 56 |
| June 17 | Our bill sundries purchased for ship Gilbert, due December 17, 1851 | | 3 03 | 99 40 | 3,206 50 |
| | Commission on $5,097, sundries, ship per Laura, at 5 per cent | $253 31 | | | |
| | Commission on $13,970, sundries bought for Gilbert, 7½ per cent | 104 75 | | | |
| | Commission on $3,206 50, 2½ p. ct. | 80 12 | | | |
| | Commission on $5,009, 5 per cent. | 250 50 | 9 03 | 62 60 | 688 68 |
| July 3 | Paid for barley, nuts, and beans | 1,094 75 | | | |
| | Peons, cartage, &c | 28 87 | | | |
| | Launches and consul | 26 82 | 8 17 | 98 52 | 1,150 44 |
| 9 | 9 bbls. alcohol, due Jan'y 9, 1852 | | 2 11 | 6 73 | 285 69 |
| | 6 per cent. storage on alcohol | 39 37 | | | |
| | Labor | 2 13 | | | |
| | Commission on $331 50, 2½ p. ct. | 8 25 | 8 11 | 4 18 | 49 75 |
| Aug. 8 | George Choate's bill, 9¾ M. cigars | | 7 12 | 22 34 | 302 25 |
| Sept. 27 | P. Leach's draft, favor P. H. Sanders | | 5 21 | 171 00 | 3,000 00 |
| Oct'r 2 | Alsop & Co.'s bill, 1,750 bags flour, 200 ea., *a* $9, 6 months | $15,750 00 | | | |
| | Less short deliv'r, 14,399 | 643 50 | | | 10,106 50 |
| 6 | P. Leach's draft from A. Watty | | 5 14 | 273 33 | 5,000 00 |
| 22 | Do. do. J. Duncan | | 4 27 | 59 24 | 1,211 75 |
| 13 | Do. do. Zeramo & Co. | | 5 07 | 42 84 | 818 94 |
| | Do. do. H. H. Rogers | | 5 07 | 52 63 | 1,006 75 |
| 2 | Commission, $15,106 50, purchased from Alsop & Co. | | | | |
| | $5,000 00 draft favor A. Watty. | | | | |
| | 3,000 00 draft favor Sanders. | | | | |
| | 818 94 draft favor Zenano & Co. | | | | |
| | 1,006 75 draft favor H. H. Rogers. | | | | |
| | 1,210 75 draft favor J. Duncan. | | | | |
| | $26,142 94, *a* 5 per cent | | 5 07 | 68 37 | 1,307 18 |
| Nov. 27 | ⅓ invoice flour and barley, shipped per Spray, | | | | |
| 1852. | due 18th May, 1852 | | | | 10,140 61 |
| Feb'y 5 | Paid freight, 200 bags flour, per Elenor, from Talcahuana | | 1 15 | 94 | 62 50 |
| Mar. 20 | Balance interest account | | | | 1,293 19 |
| | E. & O. E. | | | 2,131 95 | 55,845 35 |
| | Valparaiso, 20th March, 1852. | | | | |
| | To balance brought down | | 39,103 91 | | |
| | Interest on $5,908 61, from April 4 to April 28 | | 47 04 | | |
| | | | | | $39,150 95 |

in account current with Loring & Co. Cr.

| | | | Time. | Interest. | |
|---|---|---|---|---|---|
| 1851. | | | | | |
| Nov. 4 | By remittance per Spray, in gold dust, yielding 3,043 $\frac{750}{1000}$ castellanos... | $8,666 02½ | | | |
| | Less freight and expenses, smelting..... | 141 06 | 4 16 | 386 42 | 8,524 56 |
| 1852. | | | | | |
| Feb. 13 | Remittance per Laura, viz: | | | | |
| | 2 bars gold, $15, 1,358 castellanos..... | 21 $\frac{655}{1000}$ | 3,675 08 | | |
| | 16, 1,687 $\frac{750}{1000}$..... | 21 $\frac{777}{1000}$ | 4,592 10 | | |
| | | | 8,267 18 | | |
| | Less assaying and peons..... | $9 00 | | | |
| | Commission on $8,267, a ½ p. ct. | 41 30 | | | |
| | | | 50 30 | | |
| | | | 35 | 95 90 | 8,216 88 |
| | Interest allowed on payments to Alsop & Co., $15,106, due 2d April, 1852..... | | 12 00 | 60 41 | |
| | Interest allowed on payments, invoice per Spray, viz.: | | | | |
| | 10,140 61 due 18th May, 1852..... | | 1 20 | 196 04 | |
| | Balance, interest..... | | ..... | 1,393 19 | |
| | Balance, account due Loring & Co..... | | ..... | ..... | 39,103 91 |
| | | | | 2,131 95 | 55,845 35 |
| | | | ..... | 2,131 95 | 55,845 35 |

D.—(*C. W. L. February* 24, 1854.)

DR. Captain P. Leach in account

| | | |
|---|---|---|
| 1851. | | |
| June 6 | To cash paid W. H. Vincent - - - | $990 00 |
| July 24 | " 3 tons water for Bark Laura - - | 4 50 |
| Sept. 5 | Letter postage - - - - - - - | 2 50 |
| Oct'r 1 | Sundries - - - - - - - - | 15 75 |
| Nov. 17 | Him on account - - - - - | 103 50 |
| 25 | Amount draft on E. T. Loring, for $200, at 6 per cent. premium - - - - | 212 00 |
| Dec. | Paid policy, manifest, gold dust landed ex | |
| 1852. | Laura on Talcahuana - - - - | 2 50 |
| Mar. 18 | Amount our invoice, sundries to Laura, due 12th April, 1852 - - - - - | 5,779 81 |
| | Amount on account with Bark Laura - - | 2,707 69 |
| | Cash paid him on account - - - | 406 00 |
| Mar. 20 | Do. do. do. - - - | 154 75 |
| | | $10,379 00 |
| 20 | To balance due Loring & Co. - - - | $8,527 69 |

Valparaiso, March 20, 1852.

E. and O. E.

LORING & CO.

D.—(*C. W. L. February* 24, 1854.)

with Loring & Co. Cr.

| | | | |
|---|---|---|---|
| 1851. | | | |
| Mar. 24 | By balance account this date - - - | | $1,710 00 |
| 25 | Half profit on sales gold dust, adventure per Laura - - - - - - - - - | | 64 31 |
| 1852. | | | |
| Mar. 20 | Cash rec'd from Wm. H. Vincent | $81 00 | |
| | Less launch and labor - - | 4 00 | |
| | | | 77 00 |
| | Balance - - - - - | | 8,527 69 |
| | | | $10,379 00 |

G.—(*C. W. L. March* 8, 1854.)

*Invoice of sundries purchased and shipped by Loring & Co., on board Bark Laura for Payta, Panama, on account and risk of Captain Phineas Leach, consigned to his order for sales and returns to Loring & Co.*

| | | | |
|---|---|---|---|
| 161 | bags barley, 15,542 lbs., at $3 pr. of 155 lbs. - | | $300 81 |
| 105¼ | tons Cumberland coal, *a* $12 - - - - | | 1,263 00 |
| 100 | tons English steam coal, *a* $12 - - - - | | 1,200 00 |
| 20 | tons English steam coal, *a* $15, less 4 per cent. - | | 288 00 |
| | Cartage, storage, and launch here - - - | | 253 13 |
| 300 | half barrels flour, *a* $3 4 - - - - - | | 1,050 00 |
| 150 | bags potatoes, 100 bls. each, *a* $1 1 - - - | | 108 75 |
| 157 | baskets potatoes, 100 each, *a* $1 4 - - - | | 205 50 |
| 102 | mule bridles, *a* 6 rs. - - - - - - | | 76 50 |
| 656 | eggs, *a* $1 5 per 100 - - - - - - | | 10 75 |
| 3500 | garlick - - - - - - - - - | | 16 50 |
| 1 | box, 25 dozen peach cheeses, *a* $1 2 - - - | | 31 12 |
| 60 | bags corn, containing 60, 48 lbs., *a* $2 4 - - | | 150 75 |
| 10 | bags leatills, 10, *a* $4 4 - - - - - | | 45 00 |
| 10 | bags garbaings, 10¼, $4 - - - - - | | 41 00 |
| 25 | bags beans, 25, *a* $4 1 - - - - - | | 103 13 |
| 3 | bales gunny bags, 250 each, 750, *a* 14 c. - - | | 105 00 |
| | Charges. | | |
| | Primage, $7, launch hire, $10 4 - - | $17 4 | |
| | Do. extra on coal - - - - | 8 5 | |
| | Boat, peons, shipping potatoes - - - | 7 0 | |
| | Paid John Forrastall - - - - - | 34 4 | |
| | Commission, 7½ per cent. on $5,376 56 - - | 403 2 | |
| | | | 470 87 |
| | Amount invoice due April 12, '52 - - - - | | $5,779 87 |

Valparaiso, March 18, '52.

E. & O. E. L. & CO.

H.—(*C. W. L.*)

Dr. Bark Laura and Owners in acc't with Garrison & Fritz, Panama.

| | | | |
|---|---|---|---|
| May 12 | To cash paid Capt. Easton - - - - | | $50 00 |
| 17 | " port charges $8 cy. - - - - | | 7 00 |
| 18 | " W. G. Dyer's bill - - - - | | 93 30 |
| 19 | " Captain Easton - - - - | | 573 50 |
| | 5 p. c. commission on disbursements - - | | 36 19 |
| | Am't of goods sold to Capt. Easton, proceeds used for disbursements - - - - | | 456 00 |
| | 5 p. c. commission ac. - - - - | | 22 80 |
| | The following amounts short on delivery, as per B. L. to us: | | |
| | $39\frac{15}{21}\frac{15}{14}\frac{8}{0}$ tons coal, *a* $35 - - | $1,388 67 | |
| | 20 half sacks flour, *a* $3½ - - | 70 00 | |
| | ⅔ doz. fowls, *a* $9 - - - | 6 00 | |
| | 8 bags corn, 1,536 bls., *a* 13 c. - | 26 88 | |
| | 102 mule bridles returned, no sale at invoice price - - - | 76 50 | |
| | Clearance papers - - - | 25 00 | |
| | | | 1,593 05 |
| | | | $2,831 84 |
| June 19 | To balance charged to account of Phineas Leach, esq. - - - - - - | | 784 00 |
| | E. & O. E. | | |

Cr.

| | | | |
|---|---|---|---|
| June 19 | By freight money due on cargo, as per bill of lading to us: | | |
| | 225 tons coal, | | |
| | 13½ tons flour, | | |
| | 13 tons potatoes, | | |
| | 4 tons corn, | | |
| | 4 tons beans, | | |
| | 7½ tons barley, | | |
| | 1 ton sundries, | | |
| | 268 tons, *a* $10 - - - - - | | $2,680 00 |
| | 16 dozen fowls, *a* $9 - - - - | | 144 00 |
| | Balance - - - - - - - | | 7 84 |
| | | | $2,831 84 |

Panama, November 9, 1852.
(Signed)

GARRISON & FRITZ,
By WM. C. RALSTON.

I.—(*C. W. L.*)

DR. Phineas Leach, esq., in account with

| | | | |
|---|---|---|---|
| April 2 | To amount advanced this day - | $2,100 | 00 |
| Jun 9,12 | Panama Star, Herald and Echo, for advertising - - - | 28 | 00 |
| | interest, *a* 3 p. c. per month to date, say 3 months on $2,100 | 126 | 00 |
| 19 | Bark Laura's ac. - - - | 2,824 | 00 |
| | Bark Laura's balance - - | 7 | 84 |
| July 31 | cash paid Capt. Weston - - | 375 | 00 |
| Sept. 11 | cash, W. G. Dyer's bill - - | 117 | 06 |
| | 5 p. c. on amt. disbursements, $520 - - - - - | 26 | 00 |
| Nov. 9 | 5 p. c. on sales, $8,982 26 - | 449 | 16 |
| | 2½ p. c. guarantee - - - | 224 | 58 |
| | 1½ p. c. patent duty - - | 134 | 75 |
| | H. Harris's bills - - - | 47 | 57 |
| | our check at 5 days on Lafier & Sartori in favor of Loring & Co. - - - - - | 3,896 | 52 |
| | 5 p. c. commission on same - | 194 | 83 |
| | | $10,551 | 31 |

I.—(*C. W. L.*)

Garrison & Fritz, Panama, 1852. Cr.

| | | | |
|---|---|---|---|
| June 8 | By sales ex Bark Laura to L. S., New Orleans: | | |
| | 3,552 lbs. potatoes, *a* 2 c. - - | $70 44 | |
| | 185 $\frac{225}{2240}$ tons coal, *a* $35 - - | 6,486 30 | |
| | | | $6,556 74 |
| 19 | Short of cargo on delivery 39 $\frac{1565}{2240}$ tons coal, *a* $35 - - - | 1,388 67 | |
| | 20 half sacks flour, *a* $3 50 - - | 70 00 | |
| | $\frac{3}{4}$ dozen fowls, *a* $9 - - - | 6 00 | |
| | 8 bags corn, 1,536 lbs., *a* 1$\frac{3}{4}$ c. - | 26 88 | |
| | 102 mule bridles - - - - | 76 50 | |
| | | | 1,568 05 |
| | Sales by Capt. Easton— | | |
| | 2 doz. fowls, *a* $9 - - - | 18 00 | |
| | 200 lbs. garlick, *a* $8 - - - | 16 00 | |
| | 24 half sacks flour, *a* 4 - - | 96 00 | |
| | 8 half sacks flour, *a* $3$\frac{1}{4}$ - - | 26 00 | |
| | 150 quintals potatoes, *a* $2 - - | 300 00 | |
| | | | 456 00 |
| 21 | Sales made at Tobago— | | |
| | Hulk Talma, 2 half bags flour - | 8 00 | |
| | Hulk Talma, 432 lbs. potatoes, *a* 2 c. | 8 64 | |
| 28 | Sundries, 2 half bags flour - - | 8 00 | |
| | Sundries, 50 half bags flour, *a* $3$\frac{1}{2}$ | 175 00 | |
| | | | 199 64 |
| | Thomas Mackenny & Co.— | | |
| | 160 bags barley, 16,100 lbs., *a* 1$\frac{3}{4}$ | 281 75 | |
| | 52 bags corn, 10,002 lbs., 1$\frac{3}{4}$ - | 175 03 | |
| | 45 bags beans, *a* $5$\frac{1}{2}$ - - - | 247 50 | |
| | 90 bbls. camotes, *a* $2 - - - | 180 00 | |
| | 13$\frac{1}{3}$ doz. fowls, *a* $9 - - - | 120 00 | |
| | | | 1,004 28 |
| June 29 to Au. 16 | 103 bags flour - - - - | 382 00 | |
| 27 | 4 bags flour, *a* 7$\frac{1}{2}$ - - - | 30 00 | |
| 28 | 172 gunny bags, *a* 30 c. - - | 51 60 | |
| Sept. 11 | 53 half bags flour - - - | 303 00 | |
| | | | 763 60 |
| | E. & O. E. | | |
| | | | $10,551 31 |

Panama, 9th November, 1852.

(Signed) GARRISON & FRITZ,
By WM. C. RALSTON.

K.—(*C. W. L.*)

I received two accounts from Garrison & Fritz: one was against the Bark Laura, which leaves a balance of $7 84 debit. In this account if there is charged to the Bark $1,593 05 short delivery of cargo, of which I never had any explanation, the above named account, copy of which I herewith hand to the magistrate, was never received by me at the same time the owners received an account or communication from Garrison & Fritz.

PHINEAS LEACH.

Boston, March 15, 1854.

*Letter from E. T. Loring to Capt. Phineas Leach, dated Boston, May 26, 1853.*

BOSTON, *May* 26, 1853.

Capt. PHINEAS LEACH, *Plymouth.*

DEAR SIR: I received this morning the inclosed copy of the ac. of Messrs. Loring & Co., Valparaiso, against the Bark Laura. If you intend coming to the city in the morning, I would be happy to have you call and see me. If not, please inform me by return mail what provision has been made for the payment of this bill.

Respectfully, yours,

(Signed) ELISHA T. LORING.

The above is a correct copy from the letter-book of E. T. Loring.

F. HINCKLEY.

Boston, February 25, '54.

(Copy.)

Bark Laura and Owners, Easton, master, to A. Ruden & Co. DR.

| | |
|---|---|
| For the following disbursements: | |
| Stamp for manifest, &c. | $3 4 |
| Do. for license | 3 0 |
| Postage | 4 0 |
| Franking register | 1 6 |
| Anchorage | 10 0 |
| Cash to captain | 102 0 |
| | $124 2 |
| Commission for advancing and disbursing 5 p.ct. on $124 2 | 6 2 |
| Commission for entering and clearing vessel | 25 0 |
| E. & O. E. | $155 4 |

Paita, April 15, 1852.

*Invoice of produce shipped by A. Ruden & Co., on board the American Barque "Laura," Easton, master, bound for Panama, by order and for account of Phineas Leach, esq.*

| | | | |
|---|---|---|---|
| 93 | bbls. camotes, at 10 rs. each | | $116 2 |
| 1200 | eggs, *a* 6 fr. 1 rl. | | 25 0 |
| 19⅔ | doz. fowls, *a* $6 4 | $127 7 | |
| Corn for fowls | | 3 0 | |
| | | | 130 7 |
| 108 | arobes onions, at 6¼ rls. | | 84 3 |
| Profits to the country | | | 6 4 |
| Commission, 5 per cent. on $363 | | | 18 1 |
| | E. & O. E. | | $381 1 |

Pr. A. RUDEN & CO.
L. L. NICKOLL.

Paita, 15th April, 1852.

These amounts were cancelled by a draft on Loring & Co., Valparaiso, for $536 5.

Bark Laura and Owners, Easton, master, to A. Ruden & Co. Dr.

| | | | |
|---|---|---|---|
| For the following disbursements: | | | |
| Stamp for clearance | | | $1 4 |
| Cash to captain | | | 120 0 |
| Advance to J. Carey, seaman, shipped | | | 18 0 |
| Cash to J. Rickman, seaman, discharged | | | 48 0 |
| J. Calvas's bill for provisions | | | 104 2 |
| United States consul's bill | | | 8 0 |
| Three barrels beef, *a* $25 | | $75 0 | |
| Mole dues and cargada | | 1 1 | |
| | | | 76 1 |
| | | | $377 7 |
| Commission for advancing and disbursing, 5 per cent. | | | 18 7 |
| For entering and clearing vessel | | | 25 0 |
| | E. & O. E. | | $421 6 |

Cancelled by draft on Loring & Co., Val.

For A. RUDEN & CO.
L. L. NICKERS.

Paita, August 23, 1852.

*Letter from A. Ruden & Co. to E. T. Loring.*

PAITA, *February* 14, 1854.

ELISHA T. LORING, ESQ., *Boston.*

DEAR SIR: Your valued favor, dated Baltimore, January 18, '54, came duly to hand, and we now enclose you copies of the accounts of the Bark Laura, asked for by you. The two first accounts were incurred on the arrival of the bark from Valparaiso, and the last was incurred on her return from Panama; for all of which expenses we were reimbursed by Capt'n Easton's draft on Loring & Co., Valparaiso.

Trusting that this explanation will prove satisfactory, we remain yours, truly,

Pr. A. RUDEN & CO.

*Deposition of William H. Vincent.*

JAMES W. OSBORN
vs.
BARK LAURA, WILLIAM THOMAS, &c.

District court of the United States for the district of Maryland.

UNITED STATES OF AMERICA,
*District of Massachusetts.*

Be it remembered, that on the fourth day of May, in the year of our Lord eighteen hundred and fifty-four, at Boston, in said district of Massachusetts, before me, Edward G. Loring, a commissioner in and for the district of Massachusetts to take affidavits and bail in civil causes, depending in the courts of the United States, by the circuit court of the United States, for the first circuit, under the acts of Congress in such case made and provided, personally appeared William H. Vincent, of San Francisco, in the State of California, merchant, to him personally known, a witness of sound mind and lawful age, a witness for the libellants, in a certain civil suit depending in the district court of the United States, in and for the district of Maryland, wherein James W. Osborn is plaintiff, and the Bark Laura and William Thomas is defendant. And the said Vincent being by me first carefully examined, and cautioned and sworn to testify the whole truth, did depose and say as follows, to wit:

I, William H. Vincent, of San Francisco, in the State of California, merchant, of lawful age, to testify on oath, depose, and say, in answer to interrogatories by Messrs. Schier and Welch, for the libellant, James W. Osborn:

First. Where have you resided for the last eight or nine years; in what occupation; in whose employ?

Answer. I resided from the 1st January, 1845, till the 31st July, 1852, in Valparaiso, and I was their clerk from January 1st, 1845, to 1st May, 1845, in the house of A. Himanway and Company; from

1st May, 1848, to February, 1852, in the house of Loring & Co.; since then I have been at sea, in California, and the United States.

Second. [Objected to as leading.]

Whom composed the firm of Loring & Co. at the time you were with them; is said firm dissolved or not? If you remember, state about what time.

Answer. Elisha T. Loring, George H. Bowen, and F. D. Appleton, composed the firm. The firm is dissolved, and was dissolved about the 1st July, 1852.

Third. Look at the account now handed you, and state whether or not you have seen it before; and if so, when and where?

Answer. I have seen it in Valparaiso, at the store of Loring & Co., in March, 1852. It is identified by the commissioner writing E. G. L., A., on it.

Fourth. State whether or not you have ever seen that account in the books of Loring & Co.; and if so, state when?

Answer. I have, in March, 1852, in Valparaiso.

Fifth. Look at the account now handed you, and state whether or not you have lately seen a duplicate of that account, and where, and in whose handwriting was it, and how was said original marked?

[Objected.]

Answer. I have lately seen a duplicate in the handwriting of Mr. Atherton in Boston; the original was marked D; the account now handed me and answered about is marked B., E. G. L.

Sixth. Can you or not state any other mark which it had? If yea, state it.

[Objected.]

Answer. I don't remember any other, this moment.

Seventh. Whether or not was it a paper connected with any deposition; and if so, whose?

[Objected.]

Answer. I said the duplicate had a magistrate's mark on it; I don't know whose deposition it belonged to.

Eighth. What was the mark of the magistrate?

Answer. It was marked C. W. L.

Ninth. Look at the item of said account under date of June, 1851, "To amount paid Wm. H. Vincent," and state who Wm. Vincent is, and whether or not you knew him; and, if yea, at what time?

Answer. I am the person; that amount was paid to me at the time.

Tenth. Whether or not have you examined, within a month, as to any paper marked by any magistrate. If yea, state the mark of each, and in whose handwriting each was.

Answer. I have examined such papers; a document marked A, magistrate's mark C. W. L., is in my handwriting. A document marked C, magistrate's mark C. W. L., is in my handwriting. Documents marked D and E, magistrate's mark C. W. L., are in handwriting of F. D. Atherton. Documents marked F and G, magistrate's mark C. W. L., are in handwriting of Geo. H. Bowen.

Eleventh. Whether or not is the paper now handed you a copy of one of the papers mentioned in your last, and whether or not you ever saw the same in Valparaiso?

Answer. It is a copy, and I saw the original in Valparaiso; it is marked E. G. L., marked by the comm'r.

Twelfth. State what you remember in relation to the original of said paper in Valparaiso, and what was done with it.

Answer. After being made out it was handed to Capt'n Leach.

Thirteenth. Can you state which first left Valparaiso, Captain Leach or Bark Laura, or whether they left at the same time?

Answer. The Bark Laura left first, by about two days.

*Cross-interrogatories by Mr. Parker, counsel for respondents.*

First. Where were you born? How long did you live at Valparaiso, and what is your present business?

Answer. I was born in Milton, in Massachusetts; I lived at Valparaiso about seven years and a half; I am a merchant.

Second. What is the paper which you have held in your hand, and referred to, while you have answered the questions in the deposition?

Answer. It is a memorandum which I gave to the commissioner; it is marked 1 E. G. L., and annexed; it is in the handwriting of Mr. Welch, and my pencil-mark.

Third. From whom, when, and where did you receive the paper?

Answer. I received it from Mr. Welch, in his office, sometime within a month.

Fourth. Have you any connection with Loring & Co.? Have you dealings with them; are you or have you recently been in their employ?

Answer. No, each part.

Fifth. Do you know the handwriting of Geo. H. Bowen and Mr. Atherton, whom you have named? Have you seen them write?

Answer. Yes, to each part.

Sixth. You speak of a paper being handed to Captain Leach; who handed it to him? Did you see it handed to him?

Answer. I cannot swear I saw the document handed to him; I don't know who handed it, because I did not see it.

Seventh. Did you ever see the paper named in Captain Leach's hands or possession?

Answer. I don't remember having done so.

Eighth interrogatory. When was your attention first called to the subject on which you have been this day examined, and where and by whom?

Answer. My attention was first called to it by Mr. Welch, who is present in Boston, within a month.

Ninth. Have you talked it over with Mr. Welch, or with any member of the old or new firm?

Answer. I have.

Tenth. Who kept the books of Loring & Co.?

Answer. I did, sir.

Additional interrogatory by Mr. Welch:

Were you the sole book-keeper, or did you keep only a portion, and which portion?

Answer. I kept the wholesale portion of the books and no other; the retail department had its book-keeper—Mr. Rathay.

WM. H. VINCENT.

*E. G. L.* 1.

A. (C. W. L., Feb'y 24, 1854,) in handwriting of Wm. H. Vincent.
C. (C. W. L., Feb'y 24, 1854,) " "
D. (C. W. L., Feb'y 24, 1854,) " F. D. Atherton.
E. (C. W. L., March 1854,) " Same.
F. (C. W. L., Mar. 8, 1854,) " Geo. H. Bowen.
G. (C. W. L., Mar. 8, 1845,) " Geo. H. Bowen.

Correct.—W. H. V.

UNITED STATES OF AMERICA,
*District of Massachusetts.*

I, Edward G. Loring, a commissioner in and for the district of Massachusetts, to take affidavits and bail in civil causes depending in the courts of the United States, appointed by the circuit court of the United States for the first circuit, under the acts of Congress in such case made and provided, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, that the witness, William H. Vincent, lives at a greater distance than one hundred miles from the place of trial of the cause for and in which said deposition is taken.

I further certify, that a notification signed by me, the commissioner aforesaid, before whom the said deposition was taken, to the adverse party to be present at the taking of the same, and to put interrogatories if he saw fit, was first made and served on Francis E. Parker, agent and attorney of said respondents, and defendants being the nearest and within one hundred miles of the place of caption, allowing time for his attendance after being notified, not less than at the rate of one day, Sunday exclusive, for every twenty miles' travel; and said adverse party, by his said agent and attorney, did attend.

I further certify, that the said deposition was by me reduced to writing in the presence of the witness, and that he subscribed the same in my presence, and that I have retained it for the purpose of forwarding it under my own hand to the court for which it was taken, with this certificate of the reason of its being taken.

I further certify, that I am not of counsel or attorney to either of the parties in the cause in and for which the said deposition is taken, or interested in the event of said cause.

In testimony whereof, I have hereto set my hand and seal, this fourth day of May, in the year of our Lord eighteen hundred and fifty-four.

E. G. LORING, [SEAL.]
*Commissioner to take affidavits and bail*
*of the circuit court of U. S., Mass. district.*

B.—(*E. G. L.*)

DR. Capt. P. Leach in ac. with Loring & Co., to 20th March, 1852.

| | | |
|---|---|---|
| 1851. | | |
| June 6 | To amount paid to Wm. H. Vincent - - | $990 00 |
| July 24 | 3 tons water for Bark Laura - - - | 4 50 |
| Sept. 5 | letter postage - - - - - - | 2 50 |
| Oct. 1 | sundries - - - - - - | 15 75 |
| Nov. 17 | cash - - - - - - - | 103 50 |
| 25 | draft $200, *a* 6 p. c. - - - - | 212 00 |
| Dec. | policy and manifest gold dust, landed ex Laura in Talcahuana - - - - | 2 50 |
| Mar. 18 | our invoice sundries for Laura, due April 12, 1852 - - - - - - | 5,779 81 |
| | our ac. with Bark Laura - - - | 2,707 69 |
| | cash - - - - - - - - | 406 00 |
| | | 10,224 25 |
| Mar. 20 | balance brought down, due Loring & Co. | 8,372 94 |
| | cash paid him on ac. - - - - | 154 75 |
| | E. & O. E. | $8,527 69 |

Valparaiso, March 20, 1852.

LORING & CO.,
PHINEAS LEACH.

WM. H. V.

CR.

| | | | |
|---|---|---|---|
| 1851. | | | |
| May 24 | By balance ac. this day - - - - | | $1,710 00 |
| 25 | ½ profit on sales gold dust, ac. adventure per Laura rec'd— | | |
| | Wm. H. Vincent - - - | $81 00 | |
| | Less launch - - | 4 00 | |
| | | | 77 00 |
| Mar. 20 | balance - - - - - - - - | | 8,372 94 |
| | | | $10,224 25 |

Copy of G.—(*C. W. L. March* 8, 1854.)
Or *E. G. L.*

Invoice of sundries purchased and shipped by Loring & Co. on board Bark Laura for Payta and Panama, on ac. and risk of Capt. Phineas Leach, consigned to his order for sales and returns to Loring & Co.

| | | | | |
|---|---|---|---|---|
| 161 | bags barley, 15,542, *a* $3, of 155 | - - - | | $300 81 |
| 105¼ | tons Cumberland coal, *a* $12 | - - - | | 1,263 00 |
| 100 | tons English steam coal, *a* $12 | - - - | | 1,200 00 |
| 20 | tons English steam coal, *a* $15 less 4 p. c. | - - | | 288 00 |
| | Cartage, peonage, and launch here | - - | | 253 13 |
| 300 | half bags flour, *a* $3 4 | - - - - | | 450 00 |
| 150 | bags potatoes, 100 lbs. ea., *a* $1 4 | - - | | 168 75 |
| 137 | baskets potatoes, 100 lbs. ea., *a* $1 4 | - - | | 205 50 |
| 102 | mule bridles, *a* 6 rs. | - - - - | | 76 50 |
| 656 | eggs, *a* $1 5 per 100 | - - - - | | 10 75 |
| 3,500 | garlick | - - - - - | | 16 50 |
| 1 | box, 25 dozen, peach cheeses, $1 2 | - - | | 31 12 |
| 60 | bags corn, contg. 60 far. 48, *a* $2 4 | - - | | 150 75 |
| 10 | bags lentils, 10 *a* $4 4 | - - | | 45 00 |
| 10 | garbanzos, 10¼ *a* $4 | - - | | 41 00 |
| 25 | bags beans, 25 *a* $4 1 | - - | | 103 13 |
| 3 | bales gunny bags, 250 ea. 750, *a* 14 | - - | | 105 00 |
| | *Charges.* | | | |
| | Peonage and launch hire | - - - - | $17 4 | |
| | Peonage and launch hire, extra on coal | - | 8 5 | |
| | Boat and peonage, shipping potatoes | - - | 7 0 | |
| | Paid John Forrastall | - - - - - | 34 4 | |
| | Comm'n, 7½ p. c., on $5,376 56 | - - - | 403 2 | |
| | | | | 470 87 |
| | Amount of invoice due April 12, 1852 | - - - - | | $5,779 81 |
| | E. & O. E. | | | |

Valparaiso, March 18, 1852.
(Signed) LORING & CO.
W. H. V.

*Translation of Circular.*

SIR: The subscribers, Faxon D. Atherton and George H. Bowen, as special and limited partners, and Samuel D. Crane, John Wheelwright and John Rattray, as active and responsible (general) partners, have formed a mercantile partnership for the term of five years, to be reckoned from this date.

Fax. D. Atherton and George H. Bowen, as limited and special partners, have contributed a capital therein, each the sum of twenty-five thousand dollars in cash, for which sum alone they are responsible; neither this capital nor any part of it can be withdrawn during the continuance, (term of this contract,) as appears by the public act (writing) done before Don Victorino Martinez, notary public of this city; and having purchased the stock in trade, (and the other business annexed thereto,) and the interests connected therewith, of the late house of Loring & Co., they will carry on the same business, and under the same partnership name of Loring & Co. The business in this place will be managed by Wheelwright & Rattray, and in the United States of America by Samuel D. Crane, who will use the signature of the house.

Valparaiso, 30 June, 1852.

FAXON D. ATHERTON,
GEORGE H. BOWEN,
SAMUEL D. CRANE,
JOHN WHEELWRIGHT,
JOHN RATTRAY.

SAMUEL D. CRANE will sign
LORING & Co.

JOHN WHEELWRIGHT
LORING & Co.

JOHN RATTRAY
LORING & Co.

SIR: The mercantile partnership between the undersigned, which has carried on business in this place, under the style of Loring & Co., is dissolved from this date by mutual consent.

Faxon D. Atherton and George H. Bowen, are authorized to discharge all the existing liabilities of the house, for which purpose they will use the partnership signature in liquidation. All persons having any accounts or any claims against (the firm) may apply (to the undersigned) for payment. And they request those indebted to the house to make payment as soon as possible.

Valparaiso, 30 June, 1852.

As attorney (in fact) of Elisha T. Loring,
SAMUEL D. CRANE,
FAXON D. ATHERTON,
GEO. H. BOWEN.

*Decree.*

OSBORN,
vs.
THE BARQUE LAURA.

In the district court of the United States in and for the district of Maryland, June term, 1854.

*In admiralty.*

This cause standing ready for hearing, the proceedings and proofs having been read, and the arguments of the respective proctors heard and considered: It is thereupon, this fourteenth day of June, in the year eighteen hundred and fifty-four, by this court and the authority thereof, adjudged, ordered, and decreed, that there is due to the libellant, for the repairs and supplies in the said libel claimed, the sum of two thousand nine hundred and ten dollars and twenty-three cents, ($2,910 23) with interest, at the rate of six per centum per annum, from the first day of April, 1852, till the same shall be paid; and that James Birckhead, junior, stipulator in behalf of the said barque, pay to the libellant or his proctors the said sum of two thousand nine hundred and ten dollars and twenty-three cents, ($2,910 23,) with such interest, together with the costs of the said libellant, to be taxed by the clerk. And it is further adjudged, ordered, and decreed, that unless the said stipulator, within twenty days from the date of this decree, shall pay to the said libellant or his proctor the amount so as aforesaid decreed to be due to him, with interest as aforesaid and costs; then the Barque Laura, her tackle, apparel, and furniture, shall be sold by the marshal at public sale for cash, and the proceeds of such sale brought into this court, to be applied to the satisfaction of the said claim of the libellant, with interest and costs.

WILLIAM F. GILES.

Afterwards, to wit, on the twenty-first day of June, in the year of our Lord one thousand eight hundred and fifty-four, the said respondents, by their proctors aforesaid, filed in the district court here an order to enter an appeal, in the words following, to wit:

Mr. SPICER: Please enter an appeal in the case of Osborn and others vs. The Bark Laura.

BROWN & BRUNE,
*For respondents.*

From which said decree, so as aforesaid passed, the said respondents, by their proctors aforesaid, prayed an appeal to the circuit court of the United States for the fourth circuit, in and for the Maryland district, to be held at the city of Baltimore on the first Monday in November next; and to them it is granted.

Thereupon it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted

to the said circuit court; and the same are hereby transmitted accordingly.

*Appeal bond.*

Know all men by these presents, that we, Thomas Whittridge and H. Whittridge, of the city of Baltimore, are held and firmly bound unto James W. Osborn, of the city of Baltimore, in the State of Maryland, in the just and full sum of six thousand dollars lawful money of the United States, to be paid unto the said James W. Osborn, his heirs, executors, administrators, or assigns, to which payment, well and truly to be made and done, we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, and severally firmly, by these presents; sealed with our seals, and dated this thirteenth day of September, in the year of our Lord one thousand eight hundred and fifty-four.

Whereas, heretofore, to wit, on the thirteenth day of June, in the year of our Lord one thousand eight hundred and fifty-three, the said James W. Osborn filed his libel and complaint against the Barque Laura, her tackle, apparel, and furniture, to recover the amount therein claimed. And whereas, at a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore on the first Tuesday in June, in the year of our Lord one thousand eight hundred and fifty-four, by the decree of the same court, the said James W. Osborn recovered the sum of two thousand nine hundred and ten dollars and twenty-three cents, with interest, at the rate of six per centum per annum from the first day of April, 1852, until the same shall be paid; and that James Birckhead, junior, stipulator in behalf of the said barque, pay to the libellant or his proctors the said sum, two thousand nine hundred and ten dollars and twenty-three cents, with such interest, together with the costs of the said libellant, to be taxed by the clerk. And it was further adjudged, ordered, and decreed, that unless the said stipulator, within twenty days from the date of this decree, shall pay to the said libellant or his proctors the amount so as aforesaid decreed to be due to him, with interest as aforesaid and costs, then the Barque Laura, her tackle, apparel, and furniture, shall be sold by the marshal at public auction for cash, and the proceeds of such sale brought into this court, to be applied to the satisfaction of the said claim of the libellant, with interest and costs.

From which said decree so as aforesaid passed, William Thomas, Southworth Barnes, Nathaniel Russell, Andrew L. Russell, Benjamin Hathaway, Ellis Drew, Lemuel Simmons, administrator of Daniel Goddard, deceased, and Charles G. Davis, owners of the said barque, by their proctors, have prayed an appeal to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be tried at the city of Baltimore on the first Monday in November next: Now the condition of the above obligation is such, that if the said owners of the said Barque Laura shall well and truly prosecute with effect their said appeal, and pay unto the said James W. Osborn, his heirs, executors, administrators, or assigns, the amount of the said

decree, interest, costs, and charges aforesaid, decreed unto him by the said district court, and also all such damages, costs, and charges as may be awarded unto him by the said circuit court, in case they shall fail to make good their said appeal; then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue in law.

THOMAS WHITTRIDGE, [SEAL.]
H. L. WHITTRIDGE. [SEAL.]

Signed, sealed, and delivered in presence of—
THO. SPICER.

In testimony that the aforegoing is a true copy taken from the record and proceeding of the district court aforesaid:

I hereunto subscribe my name and affix the seal of the said district court, this eighteenth day of September, in the year of our Lord one thousand eight hundred and fifty-four. [SEAL.]

THO. SPICER,
*Clk. dist. ct.*

Afterwards, to wit, on the fourteenth day of November, in the year of our Lord one thousand eight hundred and fifty-four, the circuit court here made and passed the following decree:

*Decree.*

BARQUE LAURA & OWNERS, appellants,
vs.
JAMES W. OSBORN, appellee.

Circuit court of the United States for the Maryland district.

Appeal from the district court of the United States for the district of Maryland, November term, 1854.—This case standing ready for hearing, the libel, answer, process and proceedings in the case being read and considered by the court: It is thereupon, this fourteenth day of November, 1854, adjudged, ordered, and decreed by this court, that the decree of the district court be, and the same is hereby affirmed. And it is further adjudged, ordered, and decreed, that unless the said stipulator pay to the said libellant or his proctors, within twenty days from the date of this decree, the amount so decreed to be due to him, with interest, and his costs in this court and the district court, the Barque Laura, her tackle, apparel, and furniture, be sold by the marshal for ready money, and that the proceeds of such sale be brought into this court, to be applied to the satisfaction of said claim of the libellant, with his costs in this court and in the district court.

R. B. TANEY.

From which said decree, so as aforesaid passed, the said owners and claimants of the Barque Laura, by their proctors aforesaid, in open court here, prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, and to them it is granted.

Thereupon it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court, and the same are hereby transmitted accordingly.

*Appeal bond.*

Know all men by these presents, that we, Thos. Whittridge, H. L. Whittridge, and Edw'd R. Lusby, are held and firmly bound unto James W. Osborn of the city of Baltimore, in the State of Maryland, in the just and full sum of six thousand dollars lawful money of the United States, to be paid to the said James W. Osborn, his heirs, executors, administrators, or assigns, to which payment well and truly to be made and done, we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this twenty-seventh day of December, in the year of our Lord one thousand eight hundred and fifty-four.

Whereas, at a district court of the United States in and for the Maryland distrct, begun and held at the city of Baltimore, on the first Tuesday in June, in the year of our Lord one thousand eight hundred and fifty-four, the said James W. Osborn, by the decree of the same court, recovered against the Barque Laura, her tackle, apparel, and furniture, and against James Birckhead, junior, stipulator for the said barque, the sum of two thousand nine hundred and ten dollars and twenty-three cents, with interest, at the rate of six per centum per annum, from the first day of April, 1852, until the same shall be paid, together with the costs of the said libellant; from which said decree so as aforesaid passed, the owners and claimants of the said Barque Laura prayed an appeal to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore, on the first Monday in November then next. And whereas, also, at a circuit court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and fifty-four, by the decree of the same court, it was adjudged, ordered, and decreed, that the decree of the district court be affirmed; and it was further adjudged, ordered, and decreed, that unless the said stipulator pay to the said libellant or his proctors, within twenty days from the date of the said decree, the amount so decreed to be due him, with interest, and his costs in this court and the district court, the Barque Laura, her tackle, apparel, and furniture, be sold by the marshal for ready money, and that the proceeds of such sale be brought into this court, to be applied to the satisfaction of said claim of the libellant, with his costs in this court and in the district court.

From which said decree so as aforesaid passed, the owners and claimants of said Barque Laura have prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December then next.

Now the condition of the above obligation is such, that if the said owners and claimants of the said Barque Laura shall well and truly prosecute with effect their said appeal, and pay unto the said James W. Osborn, his heirs, executors, administrators, or assigns, the amount of the said decree, interest, costs and charges aforesaid, and also all such damages, costs, and charges, as may be awarded unto him by the said Supreme Court, in case they shall fail to make good their said appeal, then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue.

THOS. WHITTRIDGE, [SEAL.]
H. L. WHITTRIDGE, [SEAL.]
EDW. R. LUSBY. [SEAL.]

Signed, sealed, and delivered in presence of—
JA. WHITTRIDGE.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid:

I hereunto subscribe my name and affix the seal of the said circuit court, this eleventh day of January, in the year of our Lord one thousand eight hundred and fifty-five. [L. S.]

THO. SPICER.
*Clk. circ't ct.*

# SUPREME COURT OF THE UNITED STATES.

WILLIAM THOMAS AND OTHERS,

vs.

JAMES W. OSBORN.

## AMENDMENT OF THE RECORD.

It is admitted that the transcript of the Record in this case is defective in the following particulars, viz:

The Libellant's Exhibit No. 1, p. 3, has on it an assignment by Loring & Co. in the following words:

"Boston, May, 28th, 1853.

Please pay the within to the order of J. W. Osborn, Esq."

It is the same account referred to by Leach as "Exhibit E." "C. W. L.," and by Vincent as "A." "C. W. L.," and is the same which Vincent says, in his answer to the third Interrogatory, p. 57, he saw on the books of Loring & Co. in March, 1852.

The letter of Ruden & Co. and accompanying accounts, pp. 54, 55 and 56, were filed with an agreement by the respective proctors, that they should be used as evidence of the facts contained in them. Exhibit B., p. 60, and D., p. 48, were both signed by Leach "*vo. bo.*" (*Visto Bueno*), the Spanish for "approved" or "correct," and the charge in said accounts, under date of March 18, is of "sundries pr. Laura," and the item immediately following, of the same date, is "our account with bark Laura."

The Libellant's Exhibit No. 2, p. 3, is referred to by Leach as "Exhibit F."

BROWN & BRUNE,
*For Appellants.*

WALLIS & THOMAS,
*For Appellee.*